



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: November 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019485

[REDACTED]

[REDACTED]

On September 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 12, 2017 eligibility determination notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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Decision Date: November 17, 2017

NY State of Health Account ID: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that you were eligible to receive up to \$202.00 in advance payments of the premium tax credit (APTC) effective May 1, 2017?

Does NYSOH have authority to review whether your Navigator placed you into the incorrect qualified health plan (QHP) for the months of June and July 2017?

Procedural History

On January 6, 2017, you updated your application for financial assistance through NYSOH.

On January 7, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$341.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver level QHP, for a limited time. This eligibility was effective February 1, 2017. The notice directed you to submit documentation of your income by April 6, 2017.

On January 13, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Fidelis bronze level QHP, with a monthly premium of \$58.59 after the application of your APTC, beginning February 1, 2017.

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No income documentation was submitted to NYSOH on your behalf.

On April 11, 2017, NYSOH redetermined your eligibility for financial assistance.

On April 12, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$202.00 per month in APTC, effective May 1, 2017. The notice stated that your tax credit amount had been adjusted because you did not provide documentation of your income within the required timeframe. Therefore, NYSOH used state and federal data sources to determine your eligibility for financial assistance.

Also on April 12, 2017, NYSOH issued notice of enrollment confirmation, confirming your enrollment in your Fidelis bronze level QHP. The notice confirmed that your new premium would be \$197.59 per month, after the application of your new APTC amount, beginning May 1, 2017.

On June 2, 2017, you spoke to NYSOH's Account Review Unit and appealed the reduction in your APTC, as of May 1, 2017.

On June 14, 2017, your application for financial assistance was updated.

On June 15, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$277.00 per month in APTC, and eligible to receive cost-sharing reductions if you enrolled in a silver level QHP, effective July 1, 2017. The notice further stated that you had until July 30, 2017 to select a health plan for coverage.

Also on June 15, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Affinity silver level QHP with a monthly premium of \$193.85 per month, after the application of your APTC, beginning June 1, 2017.

On September 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you clarified that you original filed the appeal because your premiums increases as of May 1, 2017. However, you also stated that you were appealing the fact that Fidelis did not disenroll you from your coverage for the month of May 2017 after you asked to be disenrolled, and that your Navigator enrolled in you in the wrong QHP for the months of June and July 2017. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified, and your account indicates, that you receive your notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices stating that your eligibility was only conditional, and that you needed to provide documentation of your household's income.
- 3) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you gave your Navigator income documentation when you updated your application in January 2017.
- 5) No income documentation for 2017 is visible in your NYSOH account.
- 6) Your NYSOH account indicates that, on April 11, 2017, your application was run and you were found eligible for \$202.00 in APTC, instead of \$341.00, based on income information available from state and federal data sources.
- 7) Your NYSOH application was updated by [REDACTED] on June 14, 2017, and you were found eligible to receive \$277.00 per month in APTC, beginning July 1, 2017.
- 8) Your NYSOH account reflects that [REDACTED] selected an Affinity silver level QHP for enrollment on June 14, 2017, and that your enrollment in this plan was confirmed in a notice dated June 15, 2017. According to this notice, your enrollment began on June 1, 2017.
- 9) You testified that you initially filed this appeal because your monthly QHP premium went up from \$58.59 per month to almost \$200.00 a month in May 2017.
- 10) You testified that you are also appealing because you asked Fidelis to end your coverage for the month of May 2017, as you had coverage through your employer in that month, and Fidelis did not do so.
- 11) You testified that, in addition, your Navigator, [REDACTED] enrolled you in the wrong plan in June 2017, as you requested to be enrolled in an Affinity bronze plan, not an Affinity silver plan, and that she did not tell you that your coverage was starting on June 1, 2017.

- 12) You testified that you are receiving bills from Fidelis for money that you do not think you should owe.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a QHP and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account, and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for up to \$202.00 in APTC, effective May 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on January 7, 2017, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before April 6, 2017.

You testified that you did not receive any notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you of an inconsistency in your account, and that documentation was needed to confirm the income you listed in the application. Though you testified that you provided income documentation to your Navigator in January 2017, there is no income documentation viewable in your NYSOH account for 2017.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources, unless the applicant demonstrates that they are unable to provide

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the required documentation. Any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Accordingly, you were determined to be eligible for up to \$202.00 in APTC, based on the income information available to NYSOH from state and federal data sources, as NYSOH did not have the necessary income documentation to confirm the income attested to in your January 6, 2017 application. This new eligibility properly took effect as of May 1, 2017.

Therefore, the April 12, 2017 eligibility determination notice is AFFIRMED.

The second issue under review is whether NYSOH has the authority to review your Navigator's alleged error in selecting the incorrect QHP for enrollment on June 14, 2017.

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) a denial of a request for a special enrollment period.

NYSOH does not have the authority to review the actions of a Navigator, and errors by Navigators are not appealable issues. Therefore, your appeal regarding your Navigator's alleged failure to select the proper QHP for enrollment on June 14, 2017 is DISMISSED as a non-appealable issue.

However, your case is being RETURNED to NYSOH so to assist you, should you wish to file a complaint regarding your allegation that your Navigator:
a) incorrectly selected an Affinity silver level QHP, instead of an Affinity bronze level QHP, on June 14, 2017; and b) failed to inform you that your enrollment in your plan began on June 1, 2017, and not July 1, 2017.

Lastly, you stated that Fidelis did not disenroll you from your plan even though you requested that they do so for the month of May 2017. The Appeals Unit of NYSOH has no authority to review this issue, as it is between you and Fidelis. You have the right to request a formal appeal through Fidelis, or to contact the NYS Department of Financial Services at (800) 342-3736 for information on filing a complaint against your insurance carrier.

Decision

The May 12, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to assist you in filing a complaint about your Navigator's actions, should you choose to do so.

Effective Date of this Decision: November 17, 2017

How this Decision Affects Your Eligibility

NYSOH properly based your eligibility for APTC on information available from state and federal data sources after income documentation was not received within the requested timeframe.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 12, 2017 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to assist you in filing a complaint about your Navigator's actions, should you choose to do so.

NYSOH properly based your eligibility for APTC on information available from state and federal data sources after income documentation was not received within the requested timeframe.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.