



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

Notice of Decision

Decision Date: November 07, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020069

[REDACTED]

Dear [REDACTED],

On September 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 2016 eligibility determination notice and June 20, 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 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 07, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020069

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Issues

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

Was your appeal of NY State of Health's (NYSOH) November 17, 2016 eligibility determination notice timely?

Did NYSOH properly determine that your spouse was not eligible to receive APTC because she was enrolled in employer-sponsored health insurance, effective January 1, 2017?

Procedural History

On November 16, 2016, your certified application counselor submitted an updated application for financial assistance with health insurance on your and your spouse's behalf.

On November 17, 2016, NYSOH issued an eligibility determination notice, stating that you were eligible to receive \$0.00 per month in advance payments of the premium tax credit (APTC), effective January 1, 2017, and that your spouse was eligible to purchase a qualified health plan at full cost, effective January 1, 2017. The notice stated that your spouse was not eligible to receive APTC because she was enrolled in employer-sponsored health insurance.

Also on November 17, 2016, NYSOH issued an enrollment confirmation notice, stating that you and your spouse were each enrolled in individual qualified health plans, effective January 1, 2017.

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On June 19, 2017, your certified application counselor submitted an updated application for financial assistance with health insurance on your and your spouse's behalf.

On June 20, 2017, NYSOH issued an eligibility determination notice, stating that you and your spouse were eligible to receive up to \$402.00 per month in APTC, effective August 1, 2017.

Also on June 20, 2017, NYSOH issued a notice confirming your and your spouse's enrollment in a couple's qualified health plan with a monthly premium responsibility of \$505.13, after your APTC of \$402.00 was applied. Your enrollment start date was January 1, 2017, and your APTC would be applied effective August 1, 2017.

On June 27, 2017, your certified application counselor spoke to NYSOH's Account Review Unit and appealed the eligibility determination and enrollment confirmation notices insofar as they began your financial assistance eligibility on August 1, 2017, and not January 1, 2017.

On September 27, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to October 11, 2017 to allow you time to submit supporting documentation.

Also on September 27, 2017, you faxed the requested documentation to NYSOH and it was entered into the record as Appellant's "Exhibit #1." The record was closed that day.

Findings of Fact

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

- 1) You submitted an application to NYSOH for financial assistance on November 16, 2016 with the assistance of a certified application counselor.
- 2) The November 16, 2016 application stated that your spouse was enrolled in employer sponsored coverage with a start date of March 1, 2016 and an end date of July 31, 2017.
- 3) You testified that your spouse was not enrolled in employer sponsored coverage, and that you and your spouse have had coverage through NYSOH since 2015.

- 4) Your certified application counselor entered in your spouse's prior years qualified health plan as employer sponsored insurance coverage on the November 16, 2016 application.
- 5) You testified that the certified application counselor completed the application for you, and notified you in June 2017 that there was an error with your spouse's eligibility.
- 6) You testified, and the record reflects, that the certified application counselor filed the appeal on your behalf.
- 7) You testified that you are not sure if your spouse had coverage from January 2017 through August 2017.
- 8) You testified, and the record reflects, that you submitted an updated application for financial assistance and selected a qualified health plan on June 19, 2017.
- 9) Your and your spouse's enrollment in a couple's qualified health plan became effective January 1, 2017, according to the June 20, 2017 enrollment confirmation notice.
- 10) Your and your spouse's eligibility for APTC was effective August 1, 2017.
- 11) You testified that you need your spouse's eligibility for financial assistance to begin on January 1, 2017 because you are concerned about tax implications.

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

Applicable Law and Regulations

Valid Appeal Requests

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) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) 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)).

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Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Advance Payments of the Premium Tax Credit

An APTC is available to a person who is eligible to enroll in a qualified health plan and

1. expects to have a household income between 138% and 400% of the Federal Poverty Line (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 (45 CFR § 155.305(f)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are

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eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's November 17, 2016 eligibility determination notice was timely.

The record reflects that your certified application counselor first contacted NYSOH regarding your spouse's financial eligibility as stated in the November 17, 2016 eligibility determination notice in June 2017 and filed a formal appeal.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of the notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your spouse's eligibility as stated in the November 17, 2016 eligibility determination notice, an appeal should have been filed by January 16, 2017.

Although your appeal was untimely on its face, you credibly testified that you were unaware that there was an issue until your certified application counselor contacted you in June 2017. The record confirms that your application counselor spoke with a NYSOH representative and filed an appeal on your behalf on June 27, 2017.

As you were not aware there was an issue until June 2017, and your appeal was filed that same month, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue under review is whether NYSOH properly determined your spouse was not eligible to receive APTC because she was enrolled in employer-sponsored health insurance, effective January 1, 2017.

On November 16, 2016, your certified application counselor submitted an updated application for financial assistance with health insurance on your and your spouse's behalf. As a result of this application, your spouse was found eligible to purchase a qualified health plan at full cost, NYSOH denied your spouse APTC because on the application it was stated that she was enrolled in employer sponsored health insurance.

An employee or a related individual to the employee, who is eligible to enroll in an employer-sponsored health insurance plan that is affordable and provides minimum value, is not eligible for APTC through NYSOH.

During the hearing, you credibly testified that you and your spouse have had coverage through NYSOH since 2015, and that your spouse did not have employer sponsored coverage at the time of your November 16, 2016 application. The record confirms that when your certified application counselor completed your November 16, 2016 application, he entered in your spouse's prior years qualified health plan as employer sponsored insurance coverage.

On June 19, 2017, your certified application counselor submitted an updated application for financial assistance with health insurance on your and your spouse's behalf. In this application, your certified application counselor removed the incorrect employer sponsored coverage information. You and your spouse were subsequently found eligible to receive up to \$402.00 per month in APTC, effective August 1, 2017.

Since the November 16, 2016 application was made in error by your certified application counselor, through no fault of your own, and incorrectly indicated that your spouse was enrolled in employer sponsored coverage, the November 17, 2016 eligibility determination notice is RESCINDED.

The June 20, 2017, eligibility determination is MODIFIED to state that you and your spouse were eligible to receive up to \$402.00 per month in APTC, effective January 1, 2017.

Decision

The November 17, 2016 eligibility determination notice is RESCINDED.

The June 20, 2017, eligibility determination is MODIFIED to state that you and your spouse were eligible to receive up to \$402.00 per month in APTC, effective January 1, 2017.

Your case is RETURNED to NYSOH to make your and your spouse's eligibility for up to \$402.00 per month effective as of January 1, 2017.

Effective Date of this Decision: November 07, 2017

How this Decision Affects Your Eligibility

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).

NYSOH incorrectly found your spouse not eligible for APTC as of January 1, 2017 due to your certified application counselors error.

Your case is being sent back to NYSOH to make your and your spouse's APTC eligibility effective as of January 1, 2017.

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
- 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 November 17, 2016 eligibility determination notice is RESCINDED.

NYSOH incorrectly found your spouse not eligible for APTC as of January 1, 2017 due to your certified application counselors error.

The June 20, 2017, eligibility determination is MODIFIED to state that you and your spouse were eligible to receive up to \$402.00 per month in APTC, effective January 1, 2017.

Your case is RETURNED to NYSOH to make your and your spouse's eligibility for up to \$402.00 per month effective as of January 1, 2017.

Your case is being sent back to NYSOH to make your and your spouse's APTC eligibility effective as of January 1, 2017.

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。我们可以为您免费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.

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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।

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.

Twí (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi 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.