



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

Notice of Decision

Decision Date: October 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020155

[REDACTED]

Dear [REDACTED],

On September 21, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's May 8, 2017 eligibility determination notice and the June 18, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: October 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020155

[REDACTED]

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 your eligibility for advance payments of the premium tax credit ended effective June 1, 2017?

Did NYSOH properly determine that you were eligible for a full cost qualified health plan and ineligible for advance payments of the premium tax credit, effective August 1, 2017?

Did NYSOH properly determine that you were ineligible for cost-sharing reductions?

Procedural History

On January 31, 2017, you updated your application for financial assistance.

Also on January 31, 2017, you uploaded income documentation to your NYSOH account.

On February 1, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$326.00 per month in advance payments of the premium tax credit (APTC) for a limited time and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan for a limited time, effective March 1, 2017. The notice further directed you to provide documentation confirming your income before March 1, 2017.

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Also on February 1, 2017, NYSOH issued a notice confirming your enrollment in a qualified health plan with APTC and cost-sharing reductions, effective March 1, 2017.

On February 6, 2017, NYSOH reviewed the income documentation and determined that this was insufficient to resolve the inconsistency in your account.

On February 7, 2017, NYSOH issued a notice advising you that the income documentation you submitted did not confirm the information in your application and that additional proof of income was due by May 1, 2017.

No additional income documentation was submitted.

On May 8, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective June 1, 2017.

Also on May 8, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On June 16, 2017, you updated your application for financial assistance.

On June 18, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost, effective August 1, 2017. That notice also stated that you were not eligible for APTC and cost-sharing reductions because your income was over the allowable income limits for those programs.

On June 30, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC as of June 1, 2017 as well as the finding that you were ineligible for APTC and cost-sharing reductions.

On September 21, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for fourteen days to allow you the opportunity to submit additional income documentation. On October 5, 2017, you uploaded your 2016 tax return, which has been marked as document [REDACTED] and is hereby incorporated into the record. The record is now closed.

Findings of Fact

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

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- 1) Your NYSOH account reflects that on January 31, 2017, you updated your application for financial assistance. In that application you indicated that you are self-employed. In this application, you indicated that your annual expected income for 2017 was \$24,000.00.
- 2) You testified, and your account indicates, that you receive all of your notices from NYSOH by electronic mail.
- 3) You testified that you believe you did receive an e-mail alert regarding the February 1, 2017 notice stating that your eligibility was limited and that you needed to provide documentation of your household's income.
- 4) You uploaded income documentation to your account on January 31, 2017 consisting of your earnings for the months of November 2016, December 2016, and January 2017. This documentation shows that your income for November 2016 was \$3,409.49, your income for December 2016 was \$3,151.00, and your income for January 2017 was \$2,339.07.
- 5) On February 6, 2017, NYSOH reviewed the documentation you submitted and determined that this was insufficient as all your earnings for November 2016, December 2016, and January 2017 were listed on the same spreadsheet.
- 6) You testified that you had not been keeping up with your e-mail correspondence from NYSOH.
- 7) You testified that you became aware that you had lost your APTC in mid-summer 2017, when you received a larger premium bill.
- 8) Your NYSOH account indicates that on May 7, 2017 your application was run and you were found no longer eligible for APTC as of June 1, 2017.
- 9) You updated the income information in your NYSOH account on June 16, 2017.
- 10) You testified that you expect to file your 2017 tax return as single and will claim no dependents on that tax return.
- 11) The application that was submitted on June 16, 2017 listed annual household income of \$48,000.00, consisting of income you earn from your self-employment. You testified that your income has since increased, and your current annual expected income is now between \$50,000.00 and \$60,000.00.

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- 12) Your application states, and you testified, that at the time of your June 14, 2017 application you were residing in Kings County.
- 13) Your NYSOH account reflects that on October 5, 2017 you updated your account to reflect an address in Monroe County.
- 14) You testified that you will be claiming deductions on your 2017 tax return for business expenses and student loan interest deductions. You went on to testify that you were not sure how much you would claim in deductions, but that it would be similar to your 2016 tax return.
- 15) On October 5, 2016, you uploaded your 2016 tax return which indicates that in 2016 you claimed \$2,157.00 in deductions for the deductible part of the self-employment tax and \$1,696.00 in student loan interest deductions.

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 qualified health plan 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 in order 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 in order to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

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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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (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 QHP, 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)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

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The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Federal Register 4036).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for APTC ended effective June 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 in order 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 February 1, 2017, you were advised that your eligibility for APTC was limited, and that you needed to confirm your household's income before May 1, 2017.

You testified, and your NYSOH account confirms, that you elected to receive alerts regarding notices from NYSOH electronically. You testified that you believe you did receive an e-mail alert regarding the February 1, 2017 notice advising you that you needed to submit income documentation.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

On January 31, 2017, income documentation was uploaded to your NYSOH account. On February 6, 2017, NYSOH reviewed this documentation and determined that it was insufficient to verify your income as you had uploaded information regarding your earnings for November 2016, December 2016, and January 2017, but this information was all on one spreadsheet and not separated into three spreadsheets, one for each month.

In the January 31, 2017 application you indicated that you were self-employed. On January 31, 2017, you submitted earnings records for your business for the months of November 2016, December 2016, and January 2017.

As you provided documentation of the three prior months of earnings, NYSOH improperly invalidated this documentation and should have recalculated your eligibility for financial assistance based on the income documentation you provided.

Therefore, the May 8, 2017 eligibility determination is RESCINDED.

The second issue is whether NYSOH properly determined that you were eligible for a full cost qualified health plan and ineligible for advance payments of the premium tax credit, effective August 1, 2017.

The application that was submitted on June 16, 2017 listed an annual household income of \$48,000.00 and the eligibility determination relied upon that information.

You expect to file your 2017 tax return as single and will claim no dependents on that return. Therefore, you are in a one-person household.

APTC are available to a person who has a household income no greater than 400% of the applicable FPL. Since an annual income of \$48,000.00 is 404.04% of the 2016 FPL for a one-person household, NYSOH correctly found you to be ineligible for APTC.

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).

The third issue under review is whether NYSOH properly determined that you were ineligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who is eligible for APTC and has a household income no greater than 250% of the FPL. Since you are ineligible for APTC and a household income of \$48,000.00 is 404.04% of the applicable FPL, NYSOH correctly found you to be ineligible for cost-sharing reductions.

Since the June 18, 2017 eligibility determination notice properly stated that, based on the information you provided, you were ineligible for APTC and ineligible for cost-sharing reductions, it is correct and is AFFIRMED.

During the hearing, you testified that your annual expected income for 2017 has increased to between \$50,000.00 and \$60,000.00 and you produced documentation that you will be claiming approximately \$3,853.00 in deductions.

As NYSOH properly determined that you were ineligible for APTC and cost-sharing reductions, and you indicated that your income has increased, the NYSOH Appeals Unit declines to return your case to NYSOH for further eligibility determinations.

As you have used APTC to help pay health insurance premiums in 2017, you must file a federal tax return. Your APTC will be reconciled on your 2017 income tax return.

Decision

The May 8, 2017 eligibility determination is RESCINDED.

The June 18, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 13, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your APTC effective June 1, 2017, as you had submitted sufficient documentation of your income.

You must file a 2017 tax return. The IRS will reconcile your APTC.

You are ineligible for APTC and cost-sharing reductions, effective August 1, 2017.

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).

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:

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).

NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The May 8, 2017 eligibility determination is RESCINDED.

NYSOH erred in terminating your APTC effective June 1, 2017, as you had submitted sufficient documentation of your income.

You must file a 2017 tax return. The IRS will reconcile your APTC.

The June 18, 2017 eligibility determination is AFFIRMED.

You are ineligible for APTC and cost-sharing reductions, effective August 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।

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).

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&etumi ama wo obi a okyer& 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.

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