



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

Notice of Decision

Decision Date: October 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020390

[REDACTED]

Dear [REDACTED]

On October 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 16, 2017 eligibility determination notice, and July 11, 2017 plan enrollment 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: October 20, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000020390

[REDACTED]

Issues

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

Did NY State of Health properly determine that your eligibility for advance payments of the premium tax credit ended effective June 1, 2017?

Did NY State of Health properly determine that your enrollment in your qualified health plan with the application of your advanced payments of the premium tax credit was next effective August 1, 2017?

Procedural History

On February 9, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$141.00 in advance payments of the premium tax credit (APTC) for a limited time, effective March 1, 2017. The notice directed you to provide documentation confirming your income before May 9, 2017.

On February 16, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a qualified health plan with your monthly APTC to be applied effective March 1, 2017.

No income documentation was received by May 9, 2017.

On May 16, 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 because NYSOH did not

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receive the income documentation needed to verify the income listed in your application. This eligibility was effective June 1, 2017.

Also on May 16, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a qualified health plan with \$0.00 APTC applied to your monthly premium.

On May 17, 2017, NYSOH received your updated application for financial assistance with health insurance.

On May 18, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$155.00 per month in APTC, effective July 1, 2017.

Also on May 18, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a qualified health plan with \$0.00 of APTC applied to your premium.

On July 10, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as APTC was not applied for the months of June 2017 and July 2017.

On July 11, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a qualified health plan with \$155.00 of APTC applied to your monthly premium, effective August 1, 2017.

On October 4, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record was 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 NYSOH account confirms, that you receive your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your eligibility was only for a limited time and that you needed to provide documentation of your income.
- 3) You testified that you did not know that you needed to submit income documentation to confirm your eligibility.

- 4) Your NYSOH account indicates that, on May 15, 2017, NYSOH systematically ran your application and you were found no longer eligible for APTC as of June 1, 2017.
- 5) You testified that you were unaware that your APTC had been terminated.
- 6) According to your NYSOH account, on May 17, 2017, with the assistance of an application counselor, you updated your NYSOH account to add your newborn child and a new application was submitted on your behalf.
- 7) According to your NYSOH account, you were found eligible for up to \$155.00 per month in APTC, effective July 1, 2017, but this was not applied to your premium payment.
- 8) You testified that you did not know that your application counselor did not indicate that you wanted to apply your full monthly APTC to your premium until you received a notice, in early July 2017, from your qualified health plan informing you that no APTC was being applied to your monthly premiums.
- 9) The record indicates that on July 10, 2017, your account was updated to include the application of \$155.00 per month in APTC to your premium, effective August 1, 2017.
- 10) You testified that you are seeking reinstatement of your APTC for the months of June 2017 and July 2017.

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)).

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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 individual's 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)).

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)).

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)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your eligibility for APTC ended effective May 31, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her 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 notice issued on February 8, 2017, you were advised that your eligibility for APTC was only for a limited time, and that you needed to confirm your household's income before May 9, 2017.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, you testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the eligibility determination notice, which directed you

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that your eligibility was only conditional and that you needed to submit documentation to confirm your income. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, or that the notice was later sent to you by regular mail. Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your income in order to confirm your eligibility for APTC.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the May 16, 2017 eligibility determination stating that you are no longer eligible for APTC because you failed to submit documentation is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC in the amount of \$141.00 for the month of June 2017.

The second issue under review is whether NYSOH properly determined that your enrollment in your qualified health plan with the application of your APTC in the amount of \$155.00 was effective August 1, 2017.

The record indicates that you updated your NYSOH account with the help of an application counselor on May 17, 2017, and you were redetermine eligible for up to \$155.00 per month in APTC, effective July 1, 2017. Also on May 17, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in your qualified health plan with \$0.00 in APTC applied to your monthly premium payments. Further, the record indicates that, on July 11, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in your qualified health plan, effective January 1, 2017, and the application of \$155.00 per month in APTC, effective August 1, 2017.

Ordinarily, when an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Therefore, NYSOH's July 11, 2017 plan enrollment notice would have been correct because it properly began the application of your advanced premium tax credits the first month following July 2017, that is on August 1, 2017.

However, you testified, and the record reflects, that you gave birth to your child on [REDACTED] and an application counselor assisted you in updating your NYSOH account to add your newborn child on May 17, 2017. You testified that, on May 17, 2017, you were unaware that the application counselor who assisted you with your application had not applied any of your APTC to your premium after the update. You further testified that you were unaware that APTC had not been applied for the month of July 2017 until you received notice from your qualified health plan that you owed the full premium amount for both June 2017 and July 2017. It is also noted that since your enrollment in your qualified health

plan as of January 1, 2017, you have elected to apply all of your APTC to your monthly premium.

Based on the credible evidence of the record, it is reasonable to infer that, you would have applied the \$155.00 in APTC to your premium payment on May 17, 2017, but for the application counselor's error. Had you elected to apply your APTC to your premium payment on May 17, 2017, the application of your APTC would have been applied to your premium effective the first day of the second month following May 2017, that is on July 1, 2017.

Therefore, the July 11, 2017 plan enrollment notice confirming your enrollment in your qualified health plan, effective January 1, 2017, and the application of your APTC in the amount of \$155.00, effective August 1, 2017 is MODIFIED to state that the application of your APTC was effective July 1, 2017.

Your case is RETURNED to NYSOH to apply your APTC in the amount of \$155.00 for the month of July 2017.

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability.

Decision

The May 16, 2017 notice of eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC in the amount of \$141.00 for the month of June 2017.

The July 11, 2017 plan enrollment notice is MODIFIED to state that your enrollment in your qualified health plan with the application of your APTC was effective July 1, 2017, and not August 1, 2017.

Your case is RETURNED to NYSOH to apply your APTC in the amount of \$155.00 for the month of July 2017.

Effective Date of this Decision: October 20, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your APTC, effective June 1, 2017, without the proper notice.

Your case is being sent back to NYSOH to reinstate your APTC in the amount of \$141.00 for the month of June 2017.

Your case is being sent back to NYSOH to retroactively apply your APTC in the amount of \$155.00 for the month of July 2017.

NYSOH will notify you once your APTC amounts have been applied to your premium for both months.

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 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 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):

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- 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 16, 2017 notice of eligibility determination is **RESCINDED**.

NYSOH erred in terminating your APTC effective June 1, 2017, without the proper notice.

Your case is **RETURNED** to NYSOH to reinstate your APTC in the amount of \$141.00 for the month of June 2017.

The July 11, 2017 plan enrollment notice is **MODIFIED** to state that your enrollment in your qualified health plan with the application of your APTC was effective July 1, 2017, and not August 1, 2017.

Your case is **RETURNED** to NYSOH to apply your APTC in the amount of \$155.00 for the month of July 2017.

NYSOH will notify you once your APTC amounts have been applied to your premium for both months.

Legal Authority

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

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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 okyerε 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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