



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

Notice of Decision

Decision Date: October 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020392

[REDACTED]

Dear [REDACTED]

On September 27, 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 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 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 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020392

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

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

Procedural History

On November 17, 2016, you filed an application for financial assistance with health insurance through NYSOH. You also uploaded documentation to your NYSOH account.

On November 18, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, effective January 1, 2017. The notice directed you to submit documentation of your income by February 15, 2017.

On December 6, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice directed you to submit documentation of your income by February 15, 2017.

On December 10, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan, beginning January 1, 2017.

On December 12, 2016, you faxed income documentation to NYSOH. This documentation was uploaded by NYSOH to your account on December 28, 2016.

On January 17, 2017, NYSOH reviewed the documentation you submitted and redetermined your eligibility for financial assistance.

On January 18, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$340.00 per month in APTC, and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, both effective February 1, 2017.

On January 19, 2017, NYSOH issued a notice of disenrollment, stating that your enrollment in your Essential Plan was ending, effective January 31, 2017, because you were no longer eligible to remain enrolled in the Essential Plan.

On January 20, 2017, you updated your NYSOH application.

On January 21, 2017, NYSOH issued a notice of eligibility determination, stating that you were eligible to receive up to \$340.00 per month in APTC, and eligible for cost-sharing reductions if your enrolled in a silver level qualified health plan, effective March 1, 2017.

On January 31, 2017, you updated your NYSOH account and uploaded documentation to your account.

On February 1, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$340.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver level qualified health plan, effective March 1, 2017. This eligibility was for a limited time, and you were directed to provide documentation of your income by May 1, 2017.

Also on February 1, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Fidelis silver level qualified health plan, with a monthly premium of \$93.42, after the application of your APTC, beginning March 1, 2017.

On February 10, 2017, you uploaded documentation to your NYSOH account.

On February 11, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice directed you to submit income documentation by May 1, 2017.

On May 7, 2017, NYSOH redetermined your eligibility for financial assistance.

On May 8, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in a qualified health plan at full cost, effective June 1, 2017.

Also on May 8, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Fidelis silver level qualified health plan with a monthly premium of \$419.88, plus \$13.54 for your dental coverage.

On June 19, 2017, you uploaded documentation to your NYSOH account.

On June 20, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$340.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver level qualified health plan, effective August 1, 2017.

On June 29, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a Fidelis silver level qualified health plan with a monthly premium of \$79.88 after the application of your APTC, beginning July 1, 2017.

On July 10, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the month of June 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 closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that when you first applied for health insurance in November 2016, you mistakenly provided NYSOH with your net income, instead of your gross income, so you ended up with the Essential Plan.
- 2) Your NYSOH account reflects that you uploaded two biweekly paystubs on December 12, 2016, and NYSOH recalculated your eligibility based on these income documents.
- 3) NYSOH calculated your expected annual income of be \$24,960.00, based on the income documentation you submitted in December 2016, and found you eligible to receive up to \$340.00 in APTC per month, and eligible for cost-sharing reductions.

- 4) You updated your NYSOH application again on January 20, 2017 and January 31, 2017.
- 5) You did not change the income listed in your application on either of these dates, and the expected annual income listed in your application remained \$24,960.00
- 6) After you updated your application on January 31, 2017, NYSOH again found you eligible to receive up to \$340.00 per month in APTC, and eligible for cost-sharing reductions; however, this time, you were once again asked to provide documentation of your income.
- 7) You submitted income documentation on January 31, 2017 and February 10, 2017, but NYSOH found this documentation to be insufficient, as stated in the February 11, 2017 notice.
- 8) You testified that you do not recall receiving the notice stating that your documentation was not sufficient.
- 9) You testified that you first realized that there was a problem with your account when you received a bill for approximately \$499.00 from your health plan.
- 10) You testified that you called NYSOH to find out what happened, and were told that you had not submitted enough income documentation.
- 11) You testified that you submitted four weekly paystubs after that, and your NYSOH account reflects that you uploaded documentation to your account on June 19, 2017.
- 12) Your NYSOH account reflects that, after NYSOH reviewed your income documentation, NYSOH again calculated your expected annual income to be \$24,960.00, and found you eligible to receive up to \$340.00 in APTC, beginning August 1, 2017.
- 13) Your NYSOH account reflects that NYSOH issue an enrollment confirmation notice indicating that your APTC would be reinstated as of July 1, 2017, and you testified that it was, in fact, reinstated beginning July 1, 2017.
- 14) You testified that you paid your “portion” of the premium amount for June 2017, but not the amount that would have been covered by your tax credit. You testified that you are receiving bills from your health plan because of this.

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 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)).

Legal Analysis

The 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 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 only conditional, and that you needed to confirm your household's income before May 1, 2017. Although you provided income documentation, the documentation was deemed insufficient by NYSOH, as stated in the February 11, 2017 notice that was issued to you by NYSOH.

You testified that you did not receive the February 11, 2017 notice, and did not realize that your eligibility was contingent on NYSOH's receipt of income documentation. However, the issue of whether you received this notice is irrelevant in this case, because NYSOH should not have requested additional income documentation from you after your January 31, 2017 application update.

NYSOH first requested income documentation from you in November 2016. You testified that you had mistakenly listed your net income, rather than your gross income, when you filed your application. Because of this, your income information did not match what NYSOH had obtained from state and federal data sources, and so NYSOH asked you to provide income documentation.

On December 12, 2016, you provided the requested documentation to NYSOH in the form of two biweekly paystubs, and NYSOH calculated your expected annual income to be \$24,960.00. You were subsequently found eligible to receive up to \$340.00 per month in APTC, and to receive cost-sharing reductions, effective February 1, 2017.

For reasons that are unclear from your account, and from your testimony, you updated your NYSOH application twice more, on January 20, 2017 and January 31, 2017. However, the reason for your updates is not relevant; the only issue that is relevant here is that you did not change your income in either of these updates. Both the January 20, 2017 and January 31, 2017 application updated list the same annual expected income that NYSOH calculated in January 2017: \$24,960.00.

Therefore, you should not have been required to submit additional income documentation, and your APTC should not have ended as of June 1, 2017 for failure to submit income documentation.

Accordingly, the May 8, 2017 eligibility determination notice stating that you were eligible to enroll in a qualified health plan at full cost, effective June 1, 2017, because NYSOH did not receive documentation to verify the income listed in your application is **RESCINDED**.

Since your APTC should not have ended, the June 20, 2017 eligibility determination notice is **MODIFIED** to state that you are eligible to receive up to \$340.00 per month in APTC, and eligible for cost-sharing reductions, effective June 1, 2017.

Likewise, the June 20, 2017 enrollment confirmation notice is also **MODIFIED** to state that your enrollment in your QHP, with the application of your APTC and cost-sharing reductions, began on June 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your APTC for the month of June 2017, and is **RETURNED** to Plan Management to ensure that, once your APTC is reinstated, your plan does not incorrectly continue to bill you for that portion of your June 2017 premium that should have been reduced by your APTC.

Decision

The May 8, 2017 eligibility determination notice stating that you were eligible to enroll in a qualified health plan at full cost, effective June 1, 2017, because NYSOH did not receive documentation to verify the income listed in your application is **RESCINDED**.

The June 20, 2017 notice of eligibility determination is **MODIFIED** to state that you were eligible to receive up to \$340.00 per month in APTC, and eligible for cost-sharing reductions, effective June 1, 2017.

The June 20, 2017 enrollment confirmation notice is **MODIFIED** to state that your enrollment in your qualified health plan, with the application of your APTC and cost-sharing reductions, began on June 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your APTC for the month of June 2017.

Your case is **RETURNED** to Plan Management to ensure that, once your APTC has been reinstated for June 2017, your health plan does not incorrectly continue

to bill you for the portion of your June 2017 premium that should have been covered by your APTC.

Effective Date of this Decision: October 05, 2017

How this Decision Affects Your Eligibility

NYSOH incorrectly found you to be ineligible for APTC, beginning June 1, 2017.

Your eligibility for APTC should have continued with no gap since you were first enrolled in your health plan as of March 1, 2017.

Your case is being sent back to NYSOH to reinstate your APTC for the month of June 2017, and to make sure that your plan does not continue to bill you for the portion of your June 2017 premium that should have been covered by your APTC.

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.

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).

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 May 8, 2017 eligibility determination notice stating that you were eligible to enroll in a qualified health plan at full cost, effective June 1, 2017, because NYSOH did not receive documentation to verify the income listed in your application is **RESCINDED**.

The June 20, 2017 notice of eligibility determination is **MODIFIED** to state that you were eligible to receive up to \$340.00 per month in APTC, and eligible for cost-sharing reductions, effective June 1, 2017.

The June 20, 2017 enrollment confirmation notice is **MODIFIED** to state that your enrollment in your qualified health plan, with the application of your APTC and cost-sharing reductions, began on June 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your APTC for the month of June 2017.

Your case is **RETURNED** to Plan Management to ensure that, once your APTC has been reinstated for June 2017, your health plan does not incorrectly continue

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to bill you for the portion of your June 2017 premium that should have been covered by your APTC.

NYSOH incorrectly found you to be ineligible for APTC, beginning June 1, 2017.

Your eligibility for APTC should have continued with no gap since you were first enrolled in your health plan as of March 1, 2017.

Your case is being sent back to NYSOH to reinstate your APTC for the month of June 2017, and to make sure that your plan does not continue to bill you for the portion of your June 2017 premium that should have been covered by your APTC.

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&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.

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).