



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

Notice of Decision

Decision Date: December 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023204

[REDACTED]

Dear [REDACTED],

On December 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 29, 2017, eligibility determination and enrollment notices.

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: December 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023204

[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 you and your spouse were no longer eligible for advance payments of the premium tax credit (APTC), effective September 1, 2017?

Procedural History

On August 12, 2017, NYSOH issued a plan enrollment notice confirming that as of August 11, 2017, you and your spouse were enrolled in a QHP with an enrollment start date of September 1, 2017. The notice stated that a tax credit of \$445.00 would be applied toward the \$734.07 monthly premium as of September 1, 2017.

On August 23, 2017, the August 12, 2017 plan enrollment notice was stamped "RETURN MAIL" by NYSOH, with no forwarding address (see Document [REDACTED]; uploaded 8/29/2017).

On August 28, 2017, your NYSOH account was systematically updated.

On August 29, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a QHP at full cost, effective October 1, 2017. The notice stated that you and your spouse were no longer eligible for APTC because notices regarding your eligibility and coverage were returned to NYSOH as undeliverable.

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Also on August 29, 2017, NYSOH issued a plan enrollment notice confirming that you and your spouse were enrolled in a QHP with an enrollment start date of September 1, 2017, and a \$734.07 monthly premium.

On September 13, 2017, the August 29, 2017 eligibility determination notice was stamped "RETURN MAIL" by NYSOH, with no forwarding address (see Document [REDACTED]; uploaded 9/14/2017).

On October 4, 2017, your NYSOH account was updated.

On October 5, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for a tax credit up to \$480.00 per month, effective November 1, 2017.

Also on October 5, 2017, NYSOH issued a plan enrollment notice confirming that you and your spouse were enrolled in a QHP with an enrollment start date of September 1, 2017. The notice stated that a tax credit of \$480.00 would be applied toward the \$734.07 monthly premium starting on November 1, 2017.

On October 6, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as you and your spouse did not receive APTC from September 1, 2017 through October 31, 2017.

On November 7, 2017, NYSOH issued a notice stating that you and your spouse's QHP coverage would end on September 30, 2017, because you did not pay your insurance bill by the payment deadline.

On December 4, 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 support the following findings of fact:

- 1) You testified that a tax credit was not applied to your and your spouse's health insurance premium for the months of September 2017 and October 2017.
- 2) You testified that your current residential and mailing address is [REDACTED], and that has been your address for the last year and a half.

- 3) You testified that your current New York State Driver's License, issued on 07/28/2017, reflects that your address is [REDACTED].
- 4) According to your account, [REDACTED] was listed as your residential and mailing address from March 3, 2017, through October 4, 2017.
- 5) You testified that your previous residential and mailing address was [REDACTED]. You believe that your address was incorrectly entered into your account.
- 6) You testified that during October 2017 you were contacted by Fidelis Care to inform you and your spouse that the full amount of your health insurance premium had not been paid.
- 7) You testified that you paid \$289.07 for the September 2017 and October 2017 health insurance premiums and \$254.07 for the November 2017 premium. However, all the payments were applied toward the September 2017 premium.
- 8) You testified that you are concerned that you and your spouse will be assessed a tax penalty on your 2017 federal income tax return because you were without coverage for part of the year.

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

Applicable Law and Regulations

Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305).

Eligibility - State Residency

To be eligible for enrollment in a qualified health plan (QHP) and to receive an advance premium tax credit (APTC) through NYSOH, an applicant must be a resident of New York State (45 CFR § 155.305(a)(3), (f)(1)(ii)(A)).

An individual who is age 21 or older, who is not living in an institution and able to indicate intent, is a resident of the Exchange service area in which: (1) they live

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or intend to reside, even without a fixed address; or (2) has entered the service area with a job commitment or is seeking employment. (45 CFR § 155.305(a)(3)(i)).

State Residency – Verification Process

NYSOH must accept an applicant's attestation that they are a resident of New York State, without further verification, if the information provided is reasonably compatible with other information provided by the individual or in the records of the Exchange (45 CFR § 155.315(d)(1)).

If the information provided by the applicant is not reasonably compatible with other information provided by the individual or records of the Exchange, the procedures specified in 45 CFR § 155.315(f), must be followed (45 CFR § 155.315(d)(4)).

If NYSOH cannot verify an applicant's information required to determine their eligibility for enrollment in a QHP or for financial assistance, the NYSOH must make a reasonable effort to identify and address the causes of such inconsistency. This includes contacting the application filer to confirm the accuracy of the information submitted by the application filer (45 CFR § 155.315(f)(1)). If unable to resolve the inconsistency, NYSOH must provide the applicant with notice of the inconsistency, and then provide the applicant with 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315(f)(2)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were no longer eligible for APTC, effective September 1, 2017.

NYSOH is required to determine an individual's eligibility to enroll in coverage or for financial assistance through NYSOH, and must confirm that an individual has a valid residency status.

On August 11, 2017, you and your spouse enrolled in a QHP with financial assistance. Based on that enrollment, on August 12, 2017, NYSOH issued an enrollment notice confirming that you and your spouse were enrolled in a QHP with an enrollment start date of September 1, 2017, and a tax credit of \$445.00 would be applied toward the \$734.07 monthly premium. That notice was mailed to [REDACTED]

On August 23, 2017, the August 12, 2017 plan enrollment notice was returned to NYSOH as undeliverable, without a forwarding address (see Document

[REDACTED]). Based on the return of this notice, on August 29, 2017, NYSOH determined that you and your spouse were no longer eligible for APTC.

You testified that the August 12, 2017 notice was mailed to be wrong address because your previous mailing address was [REDACTED]

NYSOH requires an applicant to report any change which may affect eligibility for financial assistance or health insurance coverage, which includes providing your current address, within 30 days of such change.

Your account reflects that [REDACTED] was listed as your address from March 3, 2017, through October 4, 2017. However, you credibly testified that your current residential and mailing address is [REDACTED], and that has been your address for the last year and a half. Further, your current New York State Driver's License, which was issued on 07/28/2017, reflects that your address is [REDACTED]. Therefore, you failed to update your account and provide NYSOH with your current address within 30 days.

Notwithstanding, if NYSOH cannot verify an individual's residency status, it must make a reasonable effort to identify and address the cause of such inconsistency, including contacting the application filer to confirm the accuracy of the information provided. If the inconsistency is not corrected, NYSOH must provide the applicant with notice of the inconsistency and a 90-day period of to resolve the inconsistency.

The record does not contain any evidence to indicate that NYSOH made any effort to address the inconsistency with your address. Since you and your spouse were determined ineligible for financial assistance only six days after the return of the notice, NYSOH did not provide you with the requisite 90-day period to resolve the inconsistency. Therefore, you and your spouse's financial assistance was improperly discontinued.

There is sufficient evidence in the record to conclude that you have maintained New York State residency since being enrolled in a QHP, with financial assistance, as of September 1, 2017.

Therefore, the August 29, 2017, eligibility determination and enrollment notices stating that you and your spouse were no longer eligible for APTC are **RESCINDED**.

You and your spouse's case is **RETURNED** to NYSOH to facilitate the reinstatement of your APTC for the months of September 2017 and October 2017.

In addition, you expressed concern about exposure to a tax penalty for not having health insurance coverage in 2017 for the requisite number of months.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2017 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings **and** your appeal was eventually successful (emphasis added).

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2017/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The August 29, 2017, eligibility determination and enrollment notices stating that you and your spouse were no longer eligible for APTC are **RESCINDED**.

You and your spouse's case is **RETURNED** to NYSOH to facilitate the reinstatement of your APTC for the months of September 2017 and October 2017, and to notify you accordingly.

Effective Date of this Decision: December 20, 2017

How this Decision Affects Your Eligibility

NYSOH incorrectly ended your and your spouse's financial assistance.

NYSOH will ensure that you receive APTC for the months of September and October 2017. NYSOH will notify you once this is done.

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:
NY State of Health Appeals
P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The August 29, 2017, eligibility determination and enrollment notices stating that you and your spouse were no longer were no longer eligible for APTC are **RESCINDED**.

You and your spouse's case is **RETURNED** to NYSOH to facilitate the reinstatement of your APTC for the months of September 2017 and October 2017, and to notify you accordingly.

NYSOH incorrectly ended you and your spouse's financial assistance.

NYSOH will ensure that you receive APTC for the months of September and October 2017. NYSOH will notify you once this is done.

Legal Authority

We are sending you this notice 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&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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