



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

Notice of Decision

Decision Date: December 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023466

[REDACTED]

Dear [REDACTED]

On December 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 14, 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).

This page intentionally left blank.



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

Decision

Decision Date: December 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023466



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 November 1, 2017?

Procedural History

On July 11, 2017, NYSOH issued an eligibility determination notice, based on your July 10, 2017 updated application, stating in part that you were eligible to receive up to \$254.00 in APTC for a limited time, effective August 1, 2017. The notice directed you to provide documentation confirming your household income by October 8, 2017.

On July 22, 2017, a plan enrollment notice was issued confirming in part your selection of a silver-level QHP with a monthly premium of \$202.46 after your monthly APTC of \$254.00 was applied as of September 1, 2017.

No documentation was submitted by October 8, 2017.

On October 14, 2017, NYSOH issued an eligibility determination notice stating that, effective November 1, 2017, you were newly eligible to purchase a QHP at full cost. The notice stated that you were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application and the date to send in this information has passed.

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).

Also on October 14, 2017, a plan enrollment notice was issued confirming in part, your enrollment in a silver-level QHP at the increased monthly premium amount of \$456.46, effective September 1, 2017.

On October 18, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your APTC was terminated for the months of September 2017 through December 2017.

On November 7, 2017, you submitted a copy of the first two pages of your divorce judgment (see [REDACTED] [REDACTED]) As of the date of this Decision, this document has not been reviewed by NYSOH.

On November 18, 2017, NYSOH issued an eligibility determination notice, based on your November 17, 2017 updated application, stating that you eligible to receive up to \$314.00 in APTC and cost-sharing reductions if you selected a silver-level QHP for a limited time, effective January 1, 2018. The notice directed you to provide documentation confirming your household income by February 15, 2018.

Also on November 18, 2017, a plan enrollment notice was issued confirming in part, your selection of silver-level QHP; with a monthly premium of \$509.94 with no APTC applied as of January 1, 2018.

On December 12, 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) On July 10, 2017, you submitted an application for insurance and were found conditionally eligible for APTC effective August 1, 2017. You were required to submit proof of household income to NYSOH by October 8, 2017.
- 2) No proof of income documentation was submitted by October 8, 2017.
- 3) You testified that you received the July 11, 2017 notice stating that you needed to submit proof of your household income to NYSOH. You further testified that you did in fact send that proof in via regular mail and are unsure as to why NYSOH did not receive it. You further testified that you have no proof of this mailing.

- 4) Your NYSOH account indicates that, on October 14, 2017, your application was systematically run and you were found no longer eligible for APTC as of November 1, 2017.
- 5) On November 7, 2017, you submitted a copy of the first two pages of your divorce judgment which states that you receive a maintenance of \$30,000.00 per year from your ex-spouse in income (see Document [REDACTED]). You testified that this is the only income you received in 2017.
- 6) As of the date of this Decision, this document has not been reviewed by NYSOH.
- 7) You testified that you are seeking to have your APTC reinstated for the months of September 2017 through December 2017, because you have a bill due to the insurance company for over \$500.00.
- 8) You testified that you are re-enrolled in a QHP with APTC as of January 1, 2018.

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)).

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)).

Timely Notice of Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

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).

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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for APTC ended effective November 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 July 11, 2017, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income by October 8, 2017.

You testified that you received the notice requesting that proof of income be submitted. Therefore, the record supports that NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

You testified that you did in fact send that proof in via regular mail and are unsure as to why NYSOH did not receive it. However, you testified that you did not have proof of this mailing and there is no such evidence in the record. Therefore, it is reasonable to conclude based on the credible evidence of record that you did not provide proof of your household income by the deadline of October 8, 2017.

Because there was no timely submission of income documentation by October 8, 2017, on October 14, 2017, NYSOH redetermined your eligibility based on the information available from federal and state data sources. On October 14, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost, effective November 1, 2017.

Any changes in APTC are to be made effective the first day of the month following the eligibility determination notice. Accordingly, your eligibility for APTC should have ended as of November 1, 2017, the month following the issuance of the October 14, 2017 eligibility determination notice.

Since the October 14, 2017 eligibility determination notice properly stated that you were newly eligible to purchase a QHP at full cost and not eligible to receive APTC, as of November 1, 2017, is correct and must be AFFIRMED.

It should be further noted that, on November 7, 2017, you submitted the first two pages of your divorce agreement for verification by NYSOH. As of the date of this

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).

Decision, NYSOH has not reviewed that proof of income documentation. As such, your case is RETURNED to NYSOH to review your submitted proof of income documentation.

Lastly, at the end of a tax year, a person who elects to take the 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, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. The amount of APTC to which you were entitled can be reconciled at the time you file your 2017 federal tax return.

Decision

The October 14, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to review your submitted proof of income documentation faxed on 11/07/17.

Effective Date of this Decision: December 18, 2017

How this Decision Affects Your Eligibility

You were not eligible to receive APTC effective November 1, 2017, because you did not provide documentation of your household's income to NYSOH by the required deadline.

This decision does not change your current eligibility or enrollment.

Your case is sent back to NYSOH to review your submitted proof of income documentation.

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

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).

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 October 14, 2017 eligibility determination notice is **AFFIRMED**.

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).

You were not eligible to receive APTC effective November 1, 2017, because you did not provide documentation of your household's income to NYSOH by the required deadline.

This decision does not change your current eligibility or enrollment.

Your case is sent back to NYSOH to review your submitted proof of income documentation.

The amount of APTC to which you were entitled can be reconciled at the time you file your 2017 federal tax return.

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 مجانًا.

বাংলা (Bengali)

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).

000 00 00000000000000 0000 000 00000 00000 000 0000000000 000000000 00 000000,
00000000 000 1-855-355-5777 0000000 00 000000 00000 00 0000000 0000 00000 00000000000 00000
0000000 00000 0000000 00000 000000

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 b&tumi 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.

שׂוֹדֵשׁ (Yiddish)

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).

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).