



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

Notice of Decision

Decision Date: January 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024228

[REDACTED]

[REDACTED]

On January 4, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 20, 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).

This page intentionally left blank.



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

Decision

Decision Date: January 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024228



Issue

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

Did NY State of Health properly apply your advanced premium tax credit to your premium responsibility for the month of November 2017?

Procedural History

On June 22, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating that you were eligible for up to \$209.00 per month in advanced premium tax credits (APTC) and eligible for cost-sharing reductions if you enrolled into a silver-level qualified health plan, effective August 1, 2017.

Also on June 22, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a silver-level qualified health plan with a premium amount of \$247.46, after \$209.00 of your APTC was applied to your monthly premium, effective August 1, 2017.

On October 19, 2017, NYSOH received five updated application for financial assistance with health insurance. You also uploaded one income document to your NYSOH account on this date, which resulted in NYSOH validating the income document and changing the income information in your NYSOH account.

On October 20, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for up to \$209.00 per month in APTC and eligible for cost-sharing reductions if you enrolled into a silver-level qualified health plan, effective November 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).

Also, on October 20, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a silver-level qualified health plan, effective August 1, 2017, with a premium amount of \$397.46, after \$59.00 of your APTC was applied to your monthly premium. This eligibility was effective November 1, 2017.

On November 9, 2017, you spoke to NYSOH's Accounts Review Unit and appealed the eligibility determination insofar as you were not found eligible for a greater amount of APTC for the month of November 2017.

On January 4, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept the record open to allow for the Hearing Officer to listen to the telephone record from NYSOH's Call Center from October 19, 2017.

The Hearing Officer listened to the three available telephone recordings from October 19, 2017, after which the record was closed.

Findings of Fact

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

- 1) You were determined eligible to receive up to \$209.00 per month in APTC, effective August 1, 2017, and you enrolled into a plan with the maximum amount of APTC amount applied to your monthly premium, effective August 1, 2017. The monthly premium for this plan after APTC was applied was \$247.46.
- 2) According to your NYSOH account, on October 19, 2017, you updated your application to indicate that your oldest child no longer needed health insurance through NYSOH and you also updated your income information.
- 3) The income information that was entered into your application did not match what NYSOH received from state and federal data sources and, as a result, NYSOH requested that you submit income documentation to confirm your eligibility by January 13, 2018.
- 4) According to your NYSOH account, you uploaded a letter from your employer on October 19, 2017. This letter, dated October 17, 2017, indicated that you started working for the employer in September 2017, and that you will be working on average 18 hours a week at a rate of \$62.00 per hour. This letter further stated that your first paystub would not be issued until November 3, 2017.
- 5) According to your NYSOH account, NYSOH validated the letter from your employer on October 19, 2017, and changed the income amount in your NYSOH account from \$8,000.00 to \$17,856.00 for that employer.

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).

- 6) According to your NYSOH account, after this income increase, a preliminary eligibility determination was issued finding you eligible for up to \$59.00 per month in APTC, effective November 1, 2017.
- 7) Following this update, also on October 19, 2017, you updated your NYSOH account. In that application, you updated the income amount.
- 8) On October 20, 2017, NYSOH issued a preliminary eligibility determination finding you eligible for up to \$209.00 per month in APTC, for a limited time, effective November 1, 2017.
- 9) You testified that, on October 19, 2017, you were prevented by a system defect from applying any APTC amount to your monthly premium amount.
- 10) You further testified that you were informed by a NYSOH representative on October 19, 2017, that there was also nothing that they could do on their end to increase the amount of APTC that was being applied to your premium.
- 11) The Hearing Officer reviewed the telephone records from October 19, 2017, and determined that:
 - a. You called that day because you were confused as to why your income information was being changed by NYSOH after you had submitted income documentation; and
 - b. The NYSOH representative assisted you in updating your application. You were found eligible for up to \$209.00 per month in APTC after the application updated, but you were unhappy with the fact that you still had to submit income documentation; and
 - c. At no time during this call, did you state that you would like to apply the full amount of APTC you were found eligible for to your monthly premium, but that you were unable to do so because of a system error or defect.
- 12) You testified that you have already paid your qualified health plan the full premium amount you owed for November 2017; which was \$397.46 after the application of \$59.00 in APTC.
- 13) You testified that you are seeking to have \$209.00 per month in APTC retroactively applied to your November 2017 premium.

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

Applicable Law and Regulations

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).

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 \$20,160.00 for a three-person household (81 Fed. Reg. 4036.).

For annual household income in the range of at least 200% but less than 250% of the 2016 FPL, the expected contribution for 2017 is between 6.43% and 8.21% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2016-24).

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

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).

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).

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 the advance premium tax credit 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 issue under review is whether NYSOH properly apply your advanced premium tax credit to your premium responsibility for the month of November 2017.

The record indicates that multiple applications for financial assistance with health insurance were submitted on October 19, 2017. However, the last application submitted on October 19, 2017 listed an annual expected income of \$43,000.00. On October 20, 2017, NYSOH issued an eligibility determination notice, based on the October 19, 2017 application, stating that you were eligible for up to \$209.00 per month in APTC. However, also on October 20, 2017, NYSOH issued an eligibility determination notice confirming your enrollment in your qualified health plan with a monthly premium amount of \$397.46 after the application of only \$59.00 in 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).

During the hearing, you testified that you are appealing the amount of APTC that was applied to your monthly premium for November 2017, insofar as it was less than the maximum APTC amount you were originally determined eligible to receive. Accordingly, given your testimony, it is concluded that you are only appealing the amount of APTC that was applied to your monthly premium for the month of November 2017, and not the amount of APTC you were found eligible for as indicated in the October 20, 2017 eligibility determination notice.

You testified that you attempted to correct the amount of APTC that was being applied to your monthly premium multiple times on October 19, 2017, but that you were unable to change the amount being applied to your monthly premium. You further testified that you were informed by a NYSOH representative that there was also nothing that they could do on their end to increase the amount of APTC that was being applied to your premium. However, after a review of the telephone recording from October 19, 2017, it is concluded that at no time during the telephone conversation did you seek to have the amount of APTC applied to your monthly premium changed. Moreover, the telephone conversation on October 19, 2017, related to the fact that you had to submit additional income documentation to confirm the APTC amount you were found eligible to receive. Therefore, there the record does not support that you attempted to increase the amount of APTC applied to your monthly premium for the month of November 2017 prior to the end of October 2017.

Therefore, the October 20, 2017 plan enrollment notice is **AFFIRMED**.

However, 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.

Since the record indicates that you were eligible for a greater amount of APTC than the amount applied to your month premium for the month of November 2017, any difference between the advance premium tax credit (based on your expected 2017 income) and the premium tax credit you can claim on your 2017 federal tax return (based on your actual 2017 income) should be reconciled on your 2017 federal tax return; especially, the APTC amount to which you were entitled for the month of November 2017.

Decision

The October 20, 2017 plan enrollment 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).

This Decision has no effect on any subsequent eligibility determination or plan enrollment notices issued by NYSOH.

Effective Date of this Decision: January 18, 2018

How this Decision Affects Your Eligibility

This Decision does not affect your current eligibility.

You were found eligible for up to \$209.00 per month in APTC for the month of November 2017, based on the information you provided in your October 20, 2017 application.

The monthly premium amount you were responsible for in November 2017 only included \$59.00 in APTC.

Any discrepancies in the amount of APTC you were entitled to and the amount of APTC applied to your premium that month will be adjusted when you file your 2017 federal tax return.

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:

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).

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 20, 2017 plan enrollment notice is **AFFIRMED**.

This Decision has no effect on any subsequent eligibility determination or plan enrollment notices issued by NYSOH.

This Decision does not affect your current eligibility.

You were found eligible for up to \$209.00 per month in APTC for the month of November 2017, based on the information you provided in your October 20, 2017 application.

The monthly premium amount you were responsible for in November 2017 only included \$59.00 in 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).

Any discrepancies in the amount of APTC you were entitled to and the amount of APTC applied to your premium that month will be adjusted when 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 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.

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).