



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

Notice of Decision

Decision Date: January 09, 2018

NY State of Health Account [REDACTED]
Appeal Identification Number: AP000000024317

[REDACTED]

[REDACTED]

On January 4, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 2, 2017 enrollment confirmation 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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Decision

Decision Date: January 09, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024317



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 the application of advance payments of the premium tax credit to your and your spouse's monthly premium were effective no earlier than December 1, 2017?

Procedural History

On December 5, 2016, you submitted an application for financial assistance.

On December 6, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$484.00 per month in advance payments of the premium tax credit (APTC), effective January 1, 2017.

Also on December 6, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2017 and that your APTC of \$484.00 per month would be applied to your monthly premium effective January 1, 2017.

On March 2, 2017, a certified application counselor updated your household's application for financial assistance, specifically, your annual expected household income was updated.

On March 3, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$440.00 per month in APTC, effective April 1, 2017.

Also on March 3, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2017 and that your APTC of \$440.00 per month would be applied to your monthly premium effective April 1, 2017.

On March 22, 2017, a certified application counselor updated your household's application for financial assistance, specifically, your annual expected household income was updated.

On March 23, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$423.00 per month in APTC, effective May 1, 2017.

Also on March 23, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2017 and that your APTC of \$423.00 per month would be applied to your monthly premium effective April 1, 2017.

On September 8, 2017, a certified application counselor updated your household's application for financial assistance, specifically, your grandchild was added as your dependent.

On September 9, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive up to \$485.00 per month in APTC, effective October 1, 2017.

Also on September 9, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2017 and that APTC of \$423.00 would be applied to your monthly premium effective April 1, 2017.

On October 13, 2017, a certified application counselor updated your household's application for financial assistance. Specifically, you and your spouse were marked as requesting that your eligibility for financial assistance be determined based on your current monthly income, monthly income was input into the application, and you and your spouse were listed as being eligible for employer sponsored health insurance.

On October 16, 2017, NYSOH issued a notice stating that the income information in your application does not match what NYSOH received from state and federal data sources and that more information was needed in order to confirm the information in your application. This notice directed you to submit proof of your

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household's current income and proof of employer sponsored health insurance by October 28, 2017 in order for your and your spouse's eligibility for financial assistance to be determined.

Also on October 16, 2017, NYSOH issued a disenrollment notice stating that you and your spouse coverage with your qualified health plan would end as of October 31, 2017. This was because you were no longer eligible to enroll in a qualified health plan.

On October 26, 2017, income documentation was uploaded to your NYSOH account.

On October 27, 2017, NYSOH verified the income documents you submitted, updated the monthly income listed in your application, and submitted an application on your behalf.

On October 28, 2017, NYSOH issued a notice of eligibility determination, based on the October 27, 2017 application, stating that you and your spouse were eligible to receive up to \$448.00 per month in APTC, effective November 1, 2017.

Also on October 28, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of November 1, 2017.

On November 1, 2017, a certified application counselor resubmitted your application for financial assistance.

On November 2, 2017, NYSOH issued a notice of eligibility determination, based on the November 1, 2017 application, stating that you and your spouse were eligible to receive up to \$448.00 per month in APTC, effective December 1, 2017.

Also on November 2, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of November 1, 2017 and that your APTC of \$448.00 per month would be applied to your monthly premium effective December 1, 2017.

On November 13, 2017, you spoke to NYSOH's Account Review Unit and appealed the enrollment confirmation notice insofar as your APTC of \$448.00 was not applied to your premium for 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 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 you had contacted your certified application counselor to advise them that your granddaughter had moved in with you and your spouse.
- 2) The record reflects that your granddaughter was added to your account on September 8, 2017.
- 3) Your NYSOH account reflects that your certified application counselor updated your application again on October 13, 2017.
- 4) You testified that you received a call from your certified application counselor advising you that your application had not gone through and that you would need to submit paystubs. You further testified that you provided paystubs to your certified application counselor and she uploaded these to your NYSOH account.
- 5) On October 26, 2017, your and your spouse's paystubs were uploaded to your NYSOH account.
- 6) On October 27, 2017, NYSOH verified the income documentation you submitted and submitted an application on your behalf. As a result of that application, you and your spouse were found eligible for APTC. NYSOH also reenrolled you and your spouse into your qualified health plan, however, your APTC was not applied to your monthly premium for November 2017.
- 7) You and your spouse testified that you never requested that NYSOH not apply your APTC to your monthly qualified health plan premium.
- 8) You and your spouse testified that you are seeking to have your APTC applied to your monthly premium for the month of November 2017.
- 9) Your spouse testified that you and your spouse have had coverage in a qualified health plan throughout 2017 and that you paid the full plan premium for the month of November 2017.
- 10) On November 13, 2017, you requested to appeal, insofar as your APTC was not applied to your premium for the month of November 2017. As a result, incident [REDACTED] was created. On January 3, 2018, a note was added to this incident indicating "Submitted data correction/incident [REDACTED] to have APTC amount applied to November 2017 coverage. The plan has manually adjusted November's APTC while awaiting the corrected [REDACTED]"

11) On January 3, 2018, a note was added to your NYSOH which indicates “Submitted data correction [REDACTED] to have APTC applied for November 2017 for couple plan”.

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

Applicable Law and Regulations

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)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not 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

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to the tax filer's total projected premium tax credit for the overall benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

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)).

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 issue under review is whether NYSOH properly determined that the application of advance payments of the premium tax credit to your and your spouse's monthly premium were effective no earlier than December 1, 2017.

The record shows that on September 8, 2017 and October 13, 2017 a certified application counselor updated your application on your behalf.

As a result of the October 13, 2017 application, NYSOH determined that additional information was needed in order to determine your and your spouse's eligibility for financial assistance.

On October 26, 2017, income documentation was uploaded to your NYSOH account. On October 27, 2017, NYSOH verified the income documentation you submitted and determined that you and your spouse were eligible for up to \$448.00 per month in APTC.

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Any changes in APTC are to be made effective the date following the eligibility redetermination notice. Therefore, you and your spouse's APTC of \$448.00 per month should have been applied to your monthly premium as of November 1, 2017.

Additionally, the January 3, 2018 note within incident [REDACTED] and the January 3, 2018 note within your NYSOH account, indicate that NYSOH has conceded that you and your spouse's APTC should have been applied to your qualified health plan premium for November 2017.

Therefore, the November 2, 2017 enrollment confirmation notice is MODIFIED to reflect that you and your spouse's APTC of \$448.00 is applied to your monthly premium as of November 1, 2017.

Your case is RETURNED to NYSOH to ensure that your APTC of \$448.00 is applied to you and your spouse's premium for the month of November 2017.

Decision

The November 2, 2017 enrollment confirmation notice is MODIFIED to reflect that you and your spouse's APTC of \$448.00 is applied to your monthly premium as of November 1, 2017.

Your case is RETURNED to NYSOH to ensure that your APTC of \$448.00 is applied to you and your spouse's premium for the month of November 2017.

Effective Date of this Decision: January 09, 2018

How this Decision Affects Your Eligibility

Your and your spouse's APTC of \$448.00 should have been applied to your monthly premium for the month of November 2017.

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

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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

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Summary

The November 2, 2017 enrollment confirmation notice is MODIFIED to reflect that your and your spouse's APTC of \$448.00 is applied to your monthly premium as of November 1, 2017.

You and your spouse's APTC of \$448.00 should have been applied to your monthly premium for the month of November 2017.

Your case is RETURNED to NYSOH to ensure that your APTC of \$448.00 is applied to your and your spouse's premium for the month of November 2017.

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।

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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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