



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

Notice of Decision

Decision Date: February 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024425

[REDACTED]

On January 29, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's September 8, 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 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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Decision

Decision Date: February 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024425

[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 family's increased share of advanced payment of the premium tax credit (APTC) would be applied effective October 1, 2018?

Procedural History

According to your NYSOH account and pursuant to NYSOH's request, you submitted your proof of income, which was validated by NYSOH on July 13, 2017

[REDACTED]

On July 14, 2017, NYSOH issued an eligibility determination notice, based on the information contained in your NYSOH account as of July 13, 2017, stating that, if you and your spouse qualified for a special enrollment period, you and your spouse were eligible to share in APTC of up to \$703.00 per month and your youngest child (child) was eligible for CHP, effective August 1, 2017.

Also on July 14, 2017, a plan enrollment notice was issued confirming your child's enrollment in a CHP plan, effective August 1, 2017. The notice stated that you and your spouse must pick a health plan.

On July 21, 2017, NYSOH issued an eligibility determination notice, based on a July 20, 2017 system update, stating that you, your spouse, and your child were

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eligible to share in up to \$1,139.00 in APTC, effective September 1, 2017. The notice stated that your child must pick a health plan by September 18, 2017.

Also on July 21, 2017, a disenrollment notice was issued stating that your child's CHP would end on August 31, 2017 because CHP is only available to individuals who are 18 years of age or younger.

Also on July 21, 2017, a plan enrollment notice was issued confirming your and your spouse's enrollment in a QHP plan, effective June 1, 2017. The notice stated that your child must pick a health plan.

On July 23, 2017, NYSOH issued an eligibility determination notice, based on a July 22, 2017 system update, stating that you, your spouse, and your child were eligible to share in up to \$1,139.00 in APTC, effective September 1, 2017. The notice stated that your child must pick a health plan by September 20, 2017.

According to the Events Tab and Enrollment History Tab in your NYSOH account, your and your spouse's QHP start date was changed from June 1, 2017 to July 1, 2017, on August 21, 2017.

On September 8, 2017, a plan enrollment notice was issued confirming your, your spouse, and your child's enrollment in a QHP plan, effective September 1, 2017. The notice stated that your increased amount of APTC of \$1,139.00 would be applied as of October 1, 2017.

On November 16, 2017, you called NYSOH Account Review Unit and requested that your increased APTC begin on September 1, 2017.

On January 29, 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) According to your NYSOH account and your testimony, you initially applied for health insurance through NYSOH on June 30, 2017. As a result of being granted a special enrollment period, you and your spouse were found eligible to share in APTC and your child was found eligible for Child Health Plus. You and your spouse were subsequently enrolled in a QHP as of July 1, 2017 and your child in a CHP plan as of August 1, 2017.
- 2) According to your NYSOH account and your testimony, your child was disenrolled from his Child Health Plus plan as of August 31, 2017,

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because he [REDACTED] in that month. As such, your account was systematically updated and you, your spouse, and your child were redetermined to be eligible to share an increased monthly APTC amount of \$1,139.00 as of September 1, 2017, as stated in the July 23, 2017 eligibility determination notice.

- 3) According to your NYSOH account, you updated your application for your child on September 7, 2017, and enrolled him into a plan that day. Your child's effective date of coverage was backdated to September 1, 2017, which resulted in a gap in the increased APTC for the month of September 2017.
- 4) You testified that, according to the documents you received from NYSOH, your family's increased APTC was supposed to go into effect as of September 1, 2017. You further testified that you spoke to a NYSOH representative on the telephone and she confirmed the same but stated that she could not do anything about it.
- 5) According a telephone call record, dated July 27, 2017, you spoke to a NYSOH representative and inquired as to whether you needed to select a health plan for your family and referred to the "notices" you received stating that you must pick a health plan. The NYSOH representative advised you that you were already enrolled in Fidelis and did not need to further enroll in coverage.
- 6) You testified that because the increased APTC did not go into effect until October 1, 2017, in September 2017 you were billed the increased family premium rate by the insurance company less your original APTC amount of \$703.00 which resulted in a bill of \$492.56, instead of \$56.56, which is your monthly premium after the increased APTC is applied.
- 7) According to your 2017 1095-A Health Insurance Marketplace Statement, you and your spouse shared an APTC of \$703.00 per month in the months of July 2017 through September 2017 (see Document [REDACTED]). Your APTC increased to \$1,139.00 in October 2017
- 8) You testified that you wanted your increased APTC applied for September 2017, because your QHP is on hold during the pendency of this action and the health plan has not paid and will not pay your medical expenses for the month of September 2017, until the increased premium is paid in full.

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

Applicable Law and Regulations

Effective Dates of Eligibility Redeterminations for Advance Payments of the Premium Tax Credit

Upon making an eligibility redetermination, NYSOH must notify the applicant, and it must implement any decreases in eligibility to receive APTC effective as of the first day of the month following the date of the notice if the change occurs on or before the 15th of the month; otherwise, the change becomes effective the first day of the second following month (45 CFR § 155.310(f), 45 CFR § 155.330(f)(1)(i) and (f)(3)). Increases become effective the first day of the following month, regardless of when during the month the change occurs (*id.*).

APTC Reconciliation

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 for a given year (stated on federal income tax return). Those who take less tax credit in advance than they can claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those 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).

Legal Analysis

Initially, it is noted that your family was found eligible to receive up to \$1,139.00 per month in APTC, based on your July 22, 2017 updated application. The amount of APTC is not in dispute.

The issue under review is whether NY State of Health properly redetermined that your family's increased APTC was to be applied as of October 1, 2017, as stated in the September 8, 2017 eligibility determination notice.

According to your NYSOH account, you updated your application for your child on September 7, 2017, and enrolled him into a QHP that day.

However, you testified and the record reflects that on July 27, 2017, you spoke to a NYSOH representative and attempted to enroll your family in a QHP, to which the NYSOH representative advised you that you were already enrolled in Fidelis. As such, your and your spouse's QHP was never updated with your child's enrollment.

When an individual changes information in their application after the 15th of any month, NYSOH may make the redetermination that results from the change effective the first day of the second month following that month,

Since it is reasonable to conclude that NYSOH erred in not allowing you to update your child's enrollment on July 27, 2017, NYSOH's September 8, 2017 plan enrollment notice is MODIFIED to state that your, your spouse's and your child's increased APTC of \$1,139.00 will be applied as of September 1, 2017.

Generally, 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, 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, as in your case. 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.

However, you testified that you want your increased APTC applied to September 2017, instead of being reconciled on your 2017 federal tax return. For this reason, NYSOH is directed to apply the additional APTC for which your family was eligible to the September 2017 QHP premium, if you so choose.

PLEASE NOTE: Any APTC you receive for 2017 must be reconciled on your 2017 federal income tax return. Therefore, filing your income tax return before the resolution of this appeal is implemented could have consequences on any income tax liability or refund.

Decision

The September 8, 2017 plan enrollment notice is MODIFIED to state that your, your spouse's and your child's increased APTC of \$1,139.00 will be applied on September 1, 2017.

Your case is RETURNED to NYSOH to apply the additional APTC for which your family was eligible to the September 2017 QHP premium, if you so choose.

Effective Date of this Decision: February 12, 2018

How this Decision Affects Your Eligibility

Your case is being sent to NYSOH to apply the increase in APTC to your September 2017 premium, if you so choose.

Otherwise the amount of APTC to which your family should have been entitled to receive in September 2017 will be reconciled when you file your federal income tax return for 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 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 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 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 September 8, 2017 plan enrollment notice is MODIFIED to state that your, your spouse's and your child's increased APTC of \$1,139.00 will be applied on September 1, 2017.

Your case is RETURNED to NYSOH to apply the additional APTC for which your family was eligible to the September 2017 QHP premium, if you so choose.

Your case is being sent to NYSOH to apply the increase in APTC to your September 2017 premium, if you so choose.

Otherwise the amount of APTC to which your family should have been entitled to receive in September 2017 will be reconciled when you file your federal income tax return for 2017.

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)

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).

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।

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

آپ کو آپ ہم کریں۔ کال پر 1-855-355-5777 کرم براہ تو ہے ضرورت کی مدد لیے کے سمجھنے اسے کو آپ اگر ہے۔ دستاویز ہم ایک یہ ہیں۔ سکتے کر فراہم مترجم مفت ایک میں زبان مادری کی

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.

אַײַדיש (Yiddish)

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. מיר קענען אייך 1-855-355-5777 דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט וואס איר רעדט. געבן א דאלמעטשער פריי פון אפצאל אין די שפראך

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