



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

Notice of Decision

Decision Date: February 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025612

[REDACTED]
[REDACTED],

On February 15, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's December 29, 2017 preliminary eligibility determination.

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.

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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025612



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) of up to \$311.00 per month ended as of January 1, 2018?

Procedural History

On November 27, 2017, NYSOH received your initial application for financial assistance with your health insurance. The income listed in this application was \$32,000.00.

On November 28, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 per month premium for a limited time, effective January 1, 2018. Your eligibility was contingent on your returning documentation of your household income to NYSOH by February 25, 2018.

Also on November 28, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in the Essential Plan, effective January 1, 2018.

On December 11, 2017, NYSOH received eight applications for financial assistance with health insurance. The household income listed in those application ranged from \$32,000.00 to \$59,348.00. Based on the last application that was filed that day, which listed a household income of \$35,340.00, NYSOH prepared a preliminary eligibility determination which stated that you were eligible

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to receive up to \$311.00 per month in APTC, as well as cost-sharing reductions if you enrolled into a silver level qualified health plan.

Also on December 11, 2017, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination insofar as you were no longer eligible for the Essential Plan.

On December 12, 2017, NYSOH issued an eligibility determination notice, based on the last application filed on December 11, 2017, stating that you were eligible to receive up to \$311.00 per month in APTC, as well as cost-sharing reductions if you enrolled into a silver level qualified health plan, effective January 1, 2018. That notice stated that you were not eligible for the Essential Plan because your income was over the allowable income limit for that program.

Also on December 12, 2017, NYSOH issued a disenrollment notice stating that you were disenrolled from your Essential Plan, effective January 1, 2018.

Finally, on December 12, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a silver level qualified health with a premium amount of \$198.94 per month, after your \$311.00 in APTC were applied, effective January 1, 2018.

On December 29, 2018, NYSOH received two applications for financial assistance with health insurance. The first application received that day listed an annual household income of \$93,433.00. Based on the first application, NYSOH prepared a preliminary eligibility determination stating that you were not eligible for financial assistance with health insurance but that you could purchase a qualified health plan at full cost. The second application received that day listed an annual household income of \$25,740.00.

On December 30, 2018, NYSOH issued an eligibility determination notice, based solely on the income listed in your second application from December 29, 2018, stating, that you were eligible for the Essential Plan with a \$20.00 premium for a limited time, effective February 1, 2018. Your eligibility was contingent on your returning documentation of your household income to NYSOH by March 29, 2018.

Also on December 30, 2018, NYSOH issued a disenrollment notice stating that your enrollment in your silver level qualified health plan would end on January 31, 2018.

Finally, on December 30, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in the Essential Plan, effective February 1, 2018.

On January 12, 2018, you contacted NYSOH and filed a complaint (Incident # [REDACTED]) to dispute being billed the full cost of your qualified health plan for the

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month of January 2018. You were transferred to the Account Review Unit who notated your appeal to state that you were additionally appealing your APTC not being applied for the month of January 2018.

On January 17, 2018, NYSOH issued an eligibility determination notice stating that you were fully eligible for the Essential Plan with a \$20.00 per month premium, effective March 1, 2018.

On February 15, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you officially withdrew your appeal on your eligibility for the Essential Plan on the record and amended your appeal to only address the application of your APTC to your qualified health plan for the month of January 2018. 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 submitted your initial application to NYSOH for financial assistance on November 27, 2017.
- 2) Your account states that you intend to file your 2018 tax return with a tax filing status of married filing jointly and that you will claim no dependents on that tax return.
- 3) On December 11, 2017, eight applications for financial assistance with health insurance were submitted.
- 4) You testified that on December 11, 2017, you updated your application for financial assistance based on the advice you had received from NYSOH representatives. You testified that you did not have all of the income information you needed at the time because you own your own business and your husband had recently retired so you were waiting to receive his benefit statement from the Social Security Administration.
- 5) You testified that the income information that was entered into your application on December 11, 2017, was what you had available to you at that point in time and that you intended on updating the application once you had the rest of your household's income information.
- 6) You enrolled into a qualified health plan on December 11, 2017.

- 7) You testified that you paid your premium, less the amount of APTC you were found eligible for, to your qualified health plan for the month of January 2018.
- 8) On December 29, 2017, you updated your application for financial assistance.
 - a. The first application includes an annual household income of \$93,433.00, consisting of \$67,693.32 you expect to earn from your business, and \$25,740.00 in income your spouse expects to receive in Social Security Benefits. This application did not list any income tax deductions you expect to take.
 - b. The second application includes an annual household income of \$25,740.00, consisting of \$0.00 you expect to earn from your business, and \$25,740.00 in income your spouse expects to receive in Social Security Benefits. This application listed numerous income tax deductions that were associated with your business.
- 9) You testified that you remember only submitting one finalized application for health insurance on December 29, 2017 but that the system did “boot” you out at one point and you had to log back in to complete your income information.
- 10) You testified that your qualified health plan is now asking for the full premium payment for your January 2018 coverage.
- 11) The enrollment history tab in your NYSOH account indicates that you were enrolled in a qualified health plan at full cost for the month of January 2018.
- 12) The record contains no notice issued by NYSOH stating that you were not eligible for financial assistance in the month of January 2018.

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

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

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CFR § 155.305(f), 26 CFR § 1.36B-2, 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

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 2017 FPL, which is \$16,240.00 for a two-person household (82 Federal Register 8831).

Effective Date of Advance Payments of the Premium Tax Credits

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

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)). NYSOH is then required to provide timely written notice of the eligibility redetermination to the individual (45 CFR § 155.310(g)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your eligibility for an APTC of up to \$311.00 per month ended as of January 1, 2018.

On December 11, 2017, eight applications for financial assistance with health insurance were submitted to NYSOH. As a result of the final application you submitted that day, NYSOH determined you eligible to receive up to \$311.00 per month in APTC. You subsequently enrolled into a qualified health plan.

On December 12, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a silver level qualified health with a premium amount of \$198.94 per month, after your \$311.00 in APTC were applied, effective January 1, 2018.

You testified that you paid your premium, less the amount of APTC you were found eligible for, to your qualified health plan for the month of January 2018 but that your qualified health plan is now asking for the full premium payment for January 2018. The enrollment history tab in your NYSOH account further

indicates that you were enrolled in a qualified health plan at full cost for the month of January 2018.

The record reflects that on December 29, 2017 you submitted two additional applications of financial assistance containing updated income information. The first application from December 29, 2017 listed an annual household income of \$93,433.00. This application resulted in a preliminary eligibility determination finding you eligible for a full cost qualified health plan, and not eligible for financial assistance.

You are in a two-person household as you expect to file your taxes as married filing jointly and claim no dependents.

APTC is available to a person who meets the non-financial requirements and has a modified adjusted gross income that is between 200% and 400% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$16,240.00 for a two-person household. Since an annual income of \$93,433.00 is 575.33% of the 2017 FPL, you would have been ineligible for APTC based on the information you submitted on your first December 29, 2017 application.

When a redetermination of APTC is made 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. Accordingly, since you updated your account on December 29, 2017 any changes in your APTC would have properly been made effective as of January 1, 2018.

However, you credibly testified that on December 29, 2017 you remember only submitting one finalized application for health insurance but that the system did "boot" you out at one point and you had to log back in to complete your income information. A review of the applications that were submitted on December 29, 2017 corroborates your testimony. The first application filed listed no income business deductions which resulted in a much higher annual household income when the system ran your application. The second application contains almost identical income information but adds to it the income tax deductions you intend to take which resulted in a much lower annual household income of \$25,740.00.

Therefore, the first application that was filed on December 29, 2017 is not supported by the record and should not have been relied upon by NYSOH when making a preliminary eligibility determination that day.

Furthermore, when an eligibility redetermination is made by NYSOH based on updated information provided by an applicant, NYSOH is required to provide timely written notice of the eligibility redetermination. In the present case, the only written notices stating what your eligibility is for January 2018 are the December 12, 2017 eligibility determination notice which states that you were eligible to

receive up to \$311.00 per month in APTC, effective January 1, 2018, and the December 12, 2017, enrollment confirmation notice stating that you were enrolled in a silver level qualified health with your \$311.00 in APTC applied, effective January 1, 2018.

Therefore, NYSOH failed to provide you with proper written notice that you were no longer eligible for APTC, effective January 1, 2018.

Since NYSOH improperly relied upon the first application that was filed on December 29, 2017 to determine your eligibility for January 2018, and they failed to issue proper notice of that eligibility, the December 29, 2017 preliminary eligibility stating that you were eligible to purchase a full pay qualified health plan, and not eligible for APTC is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your \$311.00 in APTC for the month of January 2018.

Decision

The December 29, 2017 preliminary eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your \$311.00 in APTC for the month of January 2018.

Effective Date of this Decision: February 22, 2018

How this Decision Affects Your Eligibility

NYSOH improperly terminated your APTC for the month of January 2018. Your case is being sent back to reinstate your \$311.00 in APTC as of January 1, 2018.

This decision has no effect on your eligibility for and enrollment in the Essential Plan, effective February 1, 2018.

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

Summary

The December 29, 2017 preliminary eligibility determination is **RESCINDED**.

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Your case is RETURNED to NYSOH to reinstate your \$311.00 in APTC for the month of January 2018.

NYSOH improperly terminated your APTC for the month of January 2018. Your case is being sent back to reinstate your \$311.00 in APTC as of January 1, 2018.

This decision has no effect on your eligibility for and enrollment in the Essential Plan, effective February 1, 2018.

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 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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