



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

Notice of Decision

Decision Date: May 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026655



Dear [REDACTED]

On March 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 18, 2017 and the January 3, 2018 enrollment confirmation notices.

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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026655



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 an increase to \$682.79 in advance payments of the premium tax credit (APTC) was effective no earlier than February 1, 2018?

Procedural History

On September 12, 2017, you submitted an updated application for financial assistance with health insurance for your family. The attested household income in that application was \$54,571.75.

On September 13, 2017, NYSOH issued an eligibility determination notice stating, in part, that you and your spouse were no longer eligible for Medicaid; however, your Medicaid coverage would continue until November 30, 2017, because certain individuals receive 12 continuous months of Medicaid coverage from the date they were last determined eligible.

On September 22, 2017, NYSOH issued a notice based on the income listed in your September 12, 2017 updated application, stating that you and your spouse were eligible to receive up to \$505.67 per month in APTC, effective December 1, 2017. The notice also directed you to pick a plan for you and your spouse by November 15, 2017, so that you would have coverage for the remainder of the calendar year.

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On October 18, 2017, NYSOH issued an enrollment notice directing you to select a plan for you and your spouse.

Also on October 18, 2017, NYSOH issued a notice advising you that your enrollment in your Medicaid Managed Care plan would end of November 30, 2017, because your eligibility had changed.

On November 1, 2017, NYSOH issued an enrollment notice confirming that you had selected a plan on October 31, 2017. Enrollment for you and your spouse would be effective December 1, 2017, and your monthly premium payment for December 2017 would be \$424.95, after \$505.67 in APTC of was applied.

On November 9, 2017, NYSOH issued a renewal and eligibility determination notice stating that you and your spouse qualified to receive up to \$682.79 per month in APTC, effective January 1, 2018. The notice also stated that you could apply all, part, or none of this credit towards your monthly premium. You had been re-enrolled in the same insurance product you had before.

On November 18, 2017, NYSOH issued an enrollment notice confirming that the system had re-enrolled you and your spouse in a bronze level QHP with a monthly premium of \$525.93 after application of \$505.67 in APTC with a plan enrollment and application of APTC effective January 1, 2018.

On January 2, 2018, NYSOH received an update to your enrollment.

On January 3, 2018, NYSOH issued an enrollment notice, based on your January 2, 2018 plan selection, confirming that you and your spouse were enrolled in a bronze level QHP with a monthly premium of \$348.81, after application of \$682.79 in APTC, with a plan enrollment effective January 1, 2018. The notice did not indicate when the change in the amount of APTC would go into effect.

Also on January 3, 2018, NYSOH issued a notice confirming that on January 2, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as for the month of January 2018 NYSOH applied \$505.67 and not \$682.79 in APTC.

On March 22, 2018, you and your spouse 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) Your NYSOH account reflects you and your spouse were enrolled in a bronze level QHP with \$505.67 in APTC applied to your December 2017 monthly premium.
- 2) On November 8, 2017, the system automatically updated your application for the 2018 coverage year, based on the recent applications in which you had attested to household income of \$54,571.75. The system determined you and your spouse were eligible for \$682.79 in APTC effective January 1, 2018, and you and your spouse were systematically re-enrolled in your bronze level QHP effective January 1, 2018. However, the system only applied APTC of \$505.67 beginning January 1, 2018, and this was confirmed in the November 18, 2017 enrollment notice.
- 3) You contacted NYSOH and selected a bronze level QHP on January 2, 2018, requesting that the maximum amount of APTC for which you were eligible be applied towards your premium, that is, \$682.79. You requested that this increase go into effect January 1, 2018.
- 4) The January 3, 2018, enrollment notice confirms that you and your spouse were enrolled in a bronze level QHP effective January 1, 2018 with a monthly premium of \$348.81 per month after application of \$682.79 in APTC. The notice did not state when the application of \$682.79 in APTC was effective.
- 5) According to your NYOSH account, APTC of \$505.67 was applied to your bronze level QHP for the month of January 2018.
- 6) According to your NYSOH account, APTC of \$682.79 was applied to your monthly premium as of February 1, 2018.
- 7) You testified that you had not paid for any premiums for the months of January 2018, February 2018, and March 2018.
- 8) You testified that you and your spouse have not incurred any medical bills for the months of January 2018, February 2018 or March 2018.
- 9) You testified that you want the application of \$682.79 in APTC to start effective January 1, 2018.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Effective Date of Advanced 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.*).

Legal Analysis

The issue under review is whether NYSOH properly determined that your and your spouse's application of APTC up to \$682.79 per month was effective no earlier than February 1, 2018.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

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The record shows that on September 12, 2017 you updated the information in your NYSOH account and attested to household income of \$54,571.75. Based on that application, NYSOH determined that you and your spouse were no longer eligible for Medicaid and that your Medicaid coverage would end on November 30, 2018, at the end of the 12-month period of continuous coverage.

On September 21, 2017, the system updated your application to reflect this new income, and you and your spouse were found eligible for APTC of up to \$505.67 per month, effective December 1, 2017. On October 31, 2017 you selected a bronze level QHP for you and your spouse with a plan enrollment and application of APTC effective December 1, 2017.

On November 8, 2017, the system automatically redetermined eligibility for you and your spouse for the upcoming calendar year, again based on the recently attested household income of \$54,571.75. On November 9, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse would be eligible for monthly APTC of \$682.79, effective January 1, 2018. The system automatically re-enrolled you and your spouse in your bronze level QHP effective January 1, 2018. However, the system only applied \$505.67 of APTC to your monthly premium for January 2018.

On January 2, 2018, you updated your application and requested the application of the full amount of APTC of \$682.79 to your monthly premium and requested it begin January 1, 2018. The January 3, 2018 eligibility determination notice states that you and your spouse were enrolled in your bronze level QHP effective January 1, 2018 with a monthly premium of \$348.81 per month after application of \$682.79 in APTC. The notice does not state when the application of \$682.79 in APTC became effective.

You were determined eligible for up to \$682.79 per month in APTC as of January 1, 2018 as stated in the November 9, 2017 renewal notice. That notice specifically advised you that you could apply all, some, or none of that amount towards your monthly premium.

In the absence of any input from you, either during the eligibility determination or reenrollment process, the system left the amount of APTC applied against the premium at \$505.67, the amount you had previously selected.

It is noted that the November 18, 2018 enrollment notice clearly stated that \$505.67 would continue to be applied towards your premium effective January 1, 2018. Had you contacted NYSOH at that time to increase the amount of APTC applied towards premium payments, the change could easily have gone into effect by January 1, 2018.

Therefore, the Appeals Unit of NYSOH finds that NYSOH acted within its discretion and timely advised you of the amount of APTC that would be applied

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monthly towards premium payments, and the November 18, 2017 plan enrollment notice is AFFIRMED.

Decision

The November 18, 2017 plan enrollment notice is AFFIRMED. Any additional amount of APTC that you may be found ultimately entitled to can be recouped when you file your tax return.

Effective Date of this Decision: May 23, 2018

How this Decision Affects Your Eligibility

The application of APTC towards your January 2018 premium will not change.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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)).

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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 November 18, 2017 plan enrollment notice is **AFFIRMED**. Any additional amount of APTC that you may be found ultimately entitled to can be recouped when you file your tax return.

The application of APTC towards your January 2018 premium will not change.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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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 مجانًا.

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&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.

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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