



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

Notice of Decision

Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027551



Dear [REDACTED]

On April 11, 2018, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's December 30, 2017 and February 7, 2018 eligibility determination and plan enrollment 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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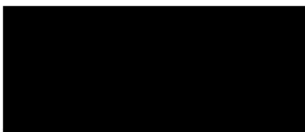


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]
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Issue

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

Did NY State of Health properly determine that your and your spouse's financial assistance ended effective January 1, 2018, and then again on March 1, 2018?

Procedural History

According to your NY State of Health (NYSOH) account, you and your spouse were found eligible for and enrolled in a gold-level qualified health plan (QHP) with a \$386.60 monthly premium after an advance payment of the premium tax credit (APTC) of \$716.00 was applied, as of January 1, 2018.

On December 30, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible for a full price QHP because notices sent to you by U.S. mail were returned to NYSOH as undeliverable. Your and your spouse's eligibility for financial assistance ended December 31, 2017.

Also on December 30, 2017, a plan enrollment notice was issued confirming your and your spouse's enrollment in a gold-level QHP with a \$1,102.60 monthly premium, reflecting that your and your spouse's APTC had been removed, as of January 1, 2018.

On January 22, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination of your and your spouse's APTC for the month of January 2018.

On January 23, 2018, NYSOH issued an eligibility determination notice, based on your and your spouse's January 22, 2018 updated application, stating that you and your spouse were eligible to share in APTC of up to \$716.00 per month for a limited time, effective February 1, 2018. You were directed to provide proof of household income by April 22, 2018.

Also on January 23, 2018, a plan enrollment notice was issued confirming your and your spouse's selection of a gold-level QHP with a \$386.60 monthly premium after an APTC of \$716.00 was applied, as of February 1, 2018.

On February 7, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible for a full price QHP. This was because notices sent to you by NYSOH were returned as undeliverable. Your and your spouse's eligibility for financial assistance ended February 28, 2018.

Also on February 7, 2018, a plan enrollment notice was issued confirming your and your spouse's enrollment in a gold-level QHP with a \$1,102.60 monthly premium, reflecting that your and your spouse's APTC had been removed again, as of January 1, 2018.

On April 11, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to April 26, 2018, to allow you time to submit supporting documents.

On April 16, 2018, you submitted the first page of your 2017 IT-201 NYS Income Tax Return, a copy of your homeowner's insurance declarations page, and a copy of your deed. These documents were made part of the record as "Appellant's Exhibit A" and the record closed that day.

Findings of Fact

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

- 1) According to your NYSOH account, you and your spouse were found eligible for and enrolled in a gold-level QHP with a \$386.60 monthly premium after an APTC of \$716.00 was applied, as of January 1, 2018. On September 30, 2017, October 24, 2017, December 8, 2017, and January 23, 2018 NYSOH issued notices that were returned as undeliverable on October 10, 2017, October 30, 2017, December 18, 2017, and February 5, 2018, respectively.
- 2) According to your NYSOH account, on December 29, 2017 and February 6, 2018, your address was marked invalid and you and your spouse were terminated from your financial assistance, effective December 31, 2017 and February 28, 2018.

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- 3) You testified that you permanently reside in the state of New York but that you spent the fall of 2017 and part of the winter in 2018 at your second home in [REDACTED], where your mail gets forwarded.
- 4) Your spouse testified that, although your address is correct on your notices, for some reason notices from NYSOH cannot be forwarded. He further stated that he has not had any issues receiving mail at your residential address from any other senders. He believes this to be a technical glitch.
- 5) You testified that you were advised by a NYSOH representative that you and your spouse lost your financial assistance through NYSOH because when you temporarily forwarded your mail to your second home, certain notices from NYSOH could not be forwarded, as if you and your spouse no longer reside in New York State.
- 6) According to the December 30, 2017 plan enrollment notice, loss of financial assistance first occurred as of January 1, 2018, due to returned mail.
- 7) According to your NYSOH account, on January 22, 2018, NYSOH received your and your spouse's updated application for health insurance. You selected a gold-level QHP that day and your and your spouse's APTC was effective on February 1, 2018. Subsequently, your and your spouse's APTC was terminated, effective March 1, 2018, also because notices sent to you by NYSOH were returned as undeliverable.
- 8) You testified that your and your spouse's APTC was applied in the month of February 2018, but that is the only month you received it.
- 9) According to your NYSOH account, the envelope in which your October 10, 2017 and October 24, 2017 notices were returned to NYSOH marked as "Return to Sender: Temporarily Away" by the U.S. Post Office
- 10) On April 16, 2018, you submitted the first page of your 2017 IT-201 NYS Income Tax Return, a copy of your homeowner's insurance declarations page and a copy of your deed. These documents show that you and your spouse reside in New York State (see Appellant's Exhibit A, [REDACTED])
- 11) You testified that you would like APTC reinstated because your and your spouse's health insurance is unaffordable without it.

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

Applicable Law and Regulations

State Residency Requirement

To be eligible for enrollment in a QHP through the New York State of Health and to be eligible to receive APTC through the NYSOH, an applicant must be a resident of New York State (45 CFR § 155.305(a)(3)), (f)(1)(ii)(A).

Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).

End of Year Tax 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 (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 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

The issue under review is whether NYSOH properly determined your and your spouse's financial assistance ended effective January 1, 2018, and then again on March 1, 2018.

You and your spouse was originally found eligible for APTC, effective January 1, 2018.

The record indicates that all the notices that were sent to you between September 30, 2017 and January 23, 2018 were returned to NYSOH. The notices dated between September 30, 2017 and October 24, 2017 were marked as "Temporarily Away" by the U.S. Post Office. As such, on December 30, 2017 and February 7, 2018, NYSOH issued eligibility determination notices stating in part that you and your spouse were not eligible for APTC any longer because NYSOH sent you information, including notices about your and your spouse's

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eligibility and coverage, by U.S. mail to the mailing address provided in your account, but the notices were returned to NYSOH as undeliverable.

You testified that you and your spouse permanently reside in the state of New York, but that you spent the fall of 2017 and part of the winter in 2018, at your second home in [REDACTED], which is where your mail is forwarded. You further testified that you were advised by a NYSOH representative that you and your spouse lost your financial assistance through NYSOH because when you temporarily forwarded your mail to your second home and certain notices from NYSOH could not be forwarded, as if you and your spouse no longer reside in New York State.

You submitted documentation, including the first page of your 2017 IT-201 NYS Income Tax Return that shows that you and your spouse reside in New York State (see Appellant's Exhibit A, [REDACTED]).

Nonetheless, enrollees are required to report changes in circumstances, including a change in mailing address, within 30 days of that change to allow NYSOH to act accordingly and send notices to a proper address.

Although you submitted evidence to NYSOH to prove that you and your spouse reside in New York, your and your spouse's testimony that certain notices from NYSOH could not be forwarded is not supported by the record. The best evidence in the record, which is your returned envelope and the mailing address listed in your NYSOH account, shows that you did not update your mailing address with NYSOH within the 30-day timeframe required by NYSOH. Based on your duty to notify NYSOH of your mailing address change while you were "temporarily away" within 30 days of this change, it is determined that this is not an error or mistake attributable to NYSOH, its entities or instrumentalities.

To be eligible to receive APTC through the NYSOH, an applicant must be a resident of New York State.

Based on the returned mail, on December 29, 2017, and February 6, 2018, your and your spouse's state residency became questionable and NYSOH was required to remove your and your spouse's eligibility for financial assistance with APTC as of January 1, 2018 and as of March 1, 2018, since you both no longer appeared to qualify for financial assistance. NYSOH issued notices to this effect on December 30, 2017 and February 7, 2018 respectively. Therefore, those eligibility determinations finding you and your spouse were no longer eligible for financial assistance were also not in error.

Therefore, it is concluded that NYSOH properly redetermined you and your spouse to not be eligible for financial assistance with APTC as of January 1, 2018 and as of March 1, 2018.

In addition, it is concluded that your mailing address in your NYSOH account was not updated as required to ensure your and your spouse's eligibility for financial assistance would continue.

Therefore, the December 30, 2017 and February 7, 2018 eligibility determination and plan enrollment notices were correct and must be AFFIRMED.

It is noted that you testified APTC was applied in the month of February 2018, which is correct and will not be disturbed. As such, no further action is required by NYSOH in this regard.

Finally, 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. 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.

Decision

The December 30, 2017 and February 7, 2018 eligibility determination and plan enrollment notices are AFFIRMED.

Effective Date of this Decision: May 7, 2018

How this Decision Affects Your Eligibility

This Decision does not change your and your spouse's eligibility.

You and your spouse did not qualify for APTC as of January 1, 2018 and again as of March 1, 2018.

Your and your spouse's APTC was properly applied in the month of February 2018, therefore no further action is required by NYSOH.

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.

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).

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 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 December 30, 2017 and February 7, 2018 eligibility determination and plan enrollment notices are **AFFIRMED**.

This Decision does not change your and your spouse's eligibility.

You and your spouse did not qualify for APTC as of January 1, 2018 and again as of March 1, 2018.

Your and your spouse's APTC was properly applied in the month of February 2018, therefore no further action is required by NYSOH.

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 मदद 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. y&b&tumi 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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