

STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: April 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028579

[REDACTED]

[REDACTED]

On April 19, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 3, 2018 and January 26, 2018 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
PO 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(b).

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Decision

Decision Date: April 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028579



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 premium tax credits was effective no earlier than February 1, 2018?

Procedural History

On June 22, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for an advance premium tax credit (APTC) of up to \$88.00 per month, effective August 1, 2017.

Also on June 22, 2017, NYSOH issued an enrollment notice confirming your enrollment in a silver-level qualified health plan (QHP) as of June 21, 2017, with such coverage beginning effective June 1, 2018.

On October 28, 2017, NYSOH issued a renewal and eligibility determination notice stating that based on information about you from state and federal sources as of October 8, 2017, you qualified for an APTC of up to \$136.91 per month, effective January 1, 2018.

On November 18, 2017, NYSOH issued an enrollment notice confirming your enrollment in a silver-level QHP as of November 17, 2017. The notice stated that your enrollment in the silver-level QHP, as well as the application of APTC, begin effective January 1, 2018, with a monthly premium of \$438.51 after applying an APTC of \$88.00.

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On November 28, 2017, NYSOH received an update to your application for financial assistance with health insurance.

On November 29, 2017, NYSOH issued an eligibility determination notice stating that you are eligible for an APTC of up to \$177.00 per month for a limited time, effective January 1, 2018. You were requested to provide proof of your income to NYSOH by February 26, 2018, so that your eligibility could be confirmed.

Also on November 29, 2017, NYSOH issued an enrollment notice confirming your enrollment in a silver-level QHP as of November 28, 2017, with such coverage beginning effective January 1, 2018, with a monthly premium of \$526.51. None of the \$177.00 APTC was applied to your premium amount at that time.

On January 3, 2018, NYSOH issued an enrollment notice confirming your enrollment in a silver-level QHP as of November 28, 2017, with such coverage beginning effective January 1, 2018, with a monthly premium of \$349.51, after the application of \$177.00 in APTC. However, the notice clarified that your APTC would not begin until February 1, 2018.

On January 17, 2018, NYSOH received (1) a Social Security Administration (SSA) notice of award reflecting your monthly benefits beginning as of January 2017, (2) a letter from [REDACTED], dated January 4, 2018, confirming your monthly pension benefits from [REDACTED] Retiree Service Center, (3) a letter from [REDACTED] Employees Pension Fund, dated January 11, 2018, confirm your monthly pension benefits, and (4) three handwritten rental receipts totaling \$3,000.00.

On January 18, 2018, NYSOH redetermined your eligibility for financial assistance with health insurance.

On January 19, 2018, NYSOH issued an eligibility determination notice stating that you were eligible for an APTC of up to \$177.00 per month, without condition, effective February 1, 2018.

Also on January 19, 2018, NYSOH issued an enrollment notice confirming your enrollment of a silver-level QHP as of January 18, 2018, with such coverage beginning effective January 1, 2018, with a monthly premium of \$349.51 after effect to the \$177.00 APTC. However, the notice clarified that your APTC would not begin until February 1, 2018.

On February 7, 2018, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on February 1, 2018, and not January 1, 2018.

On April 19, 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 support the following findings of fact:

- 1) You testified, and your NYSOH account reflects, that you were enrolled in a silver-level QHP for most of the 2017 plan year, and received an APTC of \$88.00 per month.
- 2) On October 28, 2017, NYSOH issued a renewal notice based on information from stated and federal sources as of October 8, 2017. You were found eligible for an APTC of up to \$136.91 per month, effective January 1, 2018.
- 3) You testified, and your NYSOH account reflects, that you further updated your NYSOH account of November 28, 2017, and were found eligible for an APTC of up to \$177.00 per month, effective January 1, 2018.
- 4) You testified that you were assisted by a NYSOH representative, and were assured that your APTC of \$177.00 would be applied beginning effective January 1, 2018.
- 5) You testified that when you received your first billing statement from your insurance carrier for coverage during January 2018, you were assessed the full \$526.51, and did not receive any of the \$177.00 APTC. You further testified that you paid the entire premium amount to prevent any inadvertent disenrollment or billing issue while your appeal with NYSOH progressed.
- 6) You testified that your APTC of \$177.00 has since been applied to all further billing statements issued by your insurance carrier for coverage beginning February 1, 2018 and beyond.

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

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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 the application of advance premium tax credits 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.

On October 28, 2017, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources as of October 8, 2017, NYSOH determined that you were eligible for an APTC of up to \$136.91 per month, effective January 1, 2018.

However, you testified, and your NYSOH account reflects, that you further updated your NYSOH application on November 28, 2017. Based on the information contained in your application, you were found eligible for an APTC of up to \$177.00 per month, effective January 1, 2018.

You credibly testified that not only did you indicate to NYSOH that you wished to remain enrolled in your silver-level QHP for the 2018 plan year, but also to have your APTC of \$177.00 applied to your premium as of January 1, 2018.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

Therefore, NYSOH's January 3, 2018 and January 26, 2018 enrollment notices are MODIFIED to state that your APTC of \$177.00 would be applied to your monthly premium starting on January 1, 2018.

Your case is RETURNED to NYSOH to effectuate the above changes to your account, and to facilitate a credit of your \$177.00 APTC amount with your insurance carrier for the month of January 2018.

Decision

The January 3, 2018 and January 26, 2018 enrollment notices are MODIFIED to state that your APTC of \$177.00 would be applied to your monthly premium starting on January 1, 2018.

Effective Date of this Decision: April 26, 2018

How this Decision Affects Your Eligibility

Your eligibility for APTC properly began as of January 1, 2018.

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

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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)).

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:

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NY State of Health Appeals
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- By fax: 1-855-900-5557

Summary

The January 3, 2018 and January 26, 2018 enrollment notices are MODIFIED to state that your APTC of \$177.00 would be applied to your monthly premium starting on January 1, 2018.

Your eligibility for APTC properly began as of January 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، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا 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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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