



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

Notice of Decision

Decision Date: April 23, 2018

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000028972

[REDACTED]

On April 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 28, 2017 automatic renewal notice and the February 3, 2018 eligibility determination and 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
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 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(b).

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 Date: April 23, 2018

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000028972

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Issues

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

Was your appeal of the October 28, 2017 automatic renewal notice timely?

Did NY State of Health (NYSOH) properly determine you were not eligible to receive \$372.00 in advance payments of the premium tax credit in January and February 2018?

Procedural History

On December 13, 2016, NYSOH issued an eligibility determination notice stating you were eligible to receive up to \$315.00 in advance payments of the premium tax credit (APTC), effective January 1, 2017.

Also on December 13, 2016, NYSOH issued an enrollment notice confirming you were enrolled in a bronze level qualified health plan (QHP), effective January 1, 2017, with a monthly premium of \$109.52 after your APTC was deducted.

On October 28, 2017, NYSOH issued a renewal notice stating your coverage was being automatically renewed for the upcoming coverage year. The notice stated that, based on income information received from state and federal data sources, you were eligible to receive up to \$208.89 in APTC, effective January 1, 2018. The notice indicates that you were being reenrolled in your same health plan for 2018. The notice further stated that if you wanted to make changes to your account, you must do so between November 16, 2017 and December 15, 2017.

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On November 17, 2017, NYSOH issued an enrollment notice confirming your enrollment in a bronze level QHP, effective January 1, 2018, with a monthly premium of \$261.91 after \$208.89 in APTC was deducted.

On February 2, 2018, NYSOH received an updated application submitted on your behalf.

On February 3, 2018, NYSOH issued an eligibility determination notice stating you were eligible to receive up to \$372.00 in APTC, effective March 1, 2018.

Also on February 3, 2018, NYSOH issued an enrollment notice confirming your enrollment in a bronze level QHP with a monthly premium of \$98.80 after \$372.00 in APTC was deducted, effective March 1, 2018.

On February 15, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as you were not eligible for \$372.00 in APTC in January and February 2018.

On April 17, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed thereafter.

Findings of Fact

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

- 1) You were determined eligible to receive up to \$315.00 in APTC, effective January 1, 2017, following a December 12, 2016 application requesting automatic renewal of your coverage for five years.
- 2) The October 28, 2017 automatic renewal notice indicated that your coverage for 2018 was being automatically renewed and that based on income information from state and federal data sources received on October 7, 2017, you were eligible to receive up to \$208.89 in APTC, effective January 1, 2018.
- 3) The October 28, 2017 automatic renewal notice stated that if you wanted to make changes to your account, you must do so between November 16, 2017 and December 15, 2017.
- 4) NYSOH issued an enrollment notice on November 17, 2018 confirming your reenrollment in your current QHP for 2018 with \$208.89 in APTC applied to the monthly premium.

- 5) You testified that you do not remember receiving either the October 28, 2017 renewal notice or the November 17, 2017 enrollment confirmation notice.
- 6) You testified, and your account confirms, you receive your notices from NYSOH by U.S. mail.
- 7) Your account confirms that both the October 28, 2017 renewal notice and the November 17, 2017 enrollment confirmation notices were addressed to the current mailing address listed on your account. You testified that the address was your correct mailing address in October and November 2017.
- 8) There is no record of any notice issued to you by NYSOH being returned as undeliverable.
- 9) You testified that your monthly premiums are automatically deducted from your bank account. You testified that you did not realize that your eligibility changed and that you were being charged a higher premium by your health plan until February 2018.
- 10) According to your account, you contacted NYSOH and updated your application on February 2, 2018.
- 11) Following that application, NYSOH determined you eligible for an increased APTC of \$372.00.
- 12) You testified, and your account confirms, that the increased APTC amount was not applied to your monthly premium until March 1, 2018.
- 13) You testified that you are appealing your eligibility for January and February 2018 insofar as you were not eligible for the increased APTC amount of \$372.00 in those months.
- 14) The appeal in your case was filed on your behalf on February 15, 2018.
- 15) There is no record of any activity on your account, aside from the October 2017 automatic renewal, between your December 12, 2016 application and the February 2, 2018 updated application.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

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.*).

Legal Analysis

The first issue under review is whether your appeal of the October 28, 2017 automatic renewal notice was timely.

On October 28, 2017, NYSOH issued a notice indicating that your coverage for 2018 was being automatically renewed and that based on income information from state and federal data sources received on October 7, 2017, you were eligible to receive up to \$208.89 in APTC, effective January 1, 2018. That notice stated that if you wanted to make changes to your account, you must do so between November 16, 2017 and December 15, 2017. Your account confirms that no changes were made to your account by December 15, 2017; therefore, the eligibility was implemented January 1, 2018.

You are appealing your eligibility for financial assistance for the months of January and February 2018. Since your account confirms that there were no updates made to your account between the October 28, 2017 automatic renewal

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notice and December 15, 2017, the October 28, 2017 renewal notice provided your eligibility for January and February 2018. Therefore, that is the determination at issue.

Pursuant to the above cited regulations, individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your eligibility for the months of January and February 2018, as stated in the October 28, 2017 automatic renewal notice, an appeal should have been filed by December 27, 2017. The record reflects that the appeal in this matter was not filed until February 15, 2018, long after the 60-day timeframe in which to appeal the October 28, 2017 eligibility determination.

It is noted that you testified you do not remember receiving either the October 28, 2017 automatic renewal notice or the November 17, 2017 enrollment confirmation notice. However, you testified, and your account confirms, you receive your notices from NYSOH by U.S. mail. Additionally, you confirmed that the mailing address listed on the notices was your correct mailing address and there is no record of any notice issued to you by NYSOH being returned as undeliverable. Therefore, the competent evidence of record supports a finding that NYSOH provided you with adequate notice of the change in your eligibility for 2018.

Since the evidence establishes that you did not appeal the October 28, 2017 automatic renewal notice within the 60-day regulatory time frame and there is no evidence in the record to justify tolling the deadline, your appeal of your eligibility for the months of January and February 2018 must be DISMISSED.

The second issue under review is whether NYSOH properly determined you were not eligible to receive \$372.00 of APTC in January and February 2018.

As discussed above, you were determined eligible to receive up to \$208.89 in APTC, effective January 1, 2018. An updated application for financial assistance with health coverage was submitted on your behalf on February 2, 2018. Following that application, you were determined eligible to receive an increased amount of APTC of up to \$372.00, effective March 1, 2018. You appealed insofar as your eligibility to receive the increased amount of APTC was not retroactively implemented for the months of January and February 2018.

Pursuant to the above cited regulations, upon a redetermination of eligibility for APTC, any increase in the amount of APTC to which an application is determined eligible must become effective the first day of the following month, regardless of when during the month the change occurs.

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Since the redetermination of your eligibility occurred on February 2, 2018, the resulting increase in the amount of APTC you were determined eligible for properly became effective on the first day of the following month; that is, on March 1, 2018.

Therefore, the February 3, 2018 eligibility determination and enrollment confirmation notices stating you were eligible for an increased amount of APTC of up to \$372.00 to be applied to your monthly premium, effective March 1, 2018, were correct and are AFFIRMED.

Decision

Your appeal of the October 28, 2017 automatic renewal notice is DISMISSED.

The February 3, 2018 eligibility determination and enrollment confirmation notices are AFFIRMED.

Effective Date of this Decision: April 23, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

The Appeals Unit will not review your eligibility for the months of January or February 2018, because there was no timely appeal of that issue.

The increase in your APTC to \$372.00 was properly implemented March 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 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 appeal 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.

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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
PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

Your appeal of the October 28, 2017 automatic renewal notice is DISMISSED.

The February 3, 2018 eligibility determination and enrollment confirmation notices are AFFIRMED.

This decision does not change your eligibility.

The Appeals Unit will not review your eligibility for the months of January or February 2018, because there was no timely appeal of that issue.

The increase in your APTC to \$372.00 was properly implemented March 1, 2018.

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。我们可以为您免费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 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.