



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

Notice of Decision

Decision Date: May 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000030224



Dear [REDACTED]

On May 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 23, 2018 enrollment confirmation notice and March 6, 2018 enrollment confirmation notice.

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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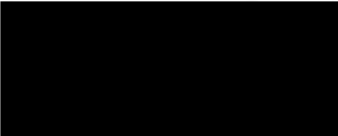


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: May 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000030224



Issue

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

Did NY State of Health (NYSOH) properly not apply your and your spouse's advanced premium tax credits (APTC) to your premium responsibility for the month of March 2018?

Procedural History

On November 18, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$563.00 per month in APTC for a limited time, effective January 1, 2018. The notice directed you to provide proof of your income by February 15, 2018.

Also on November 18, 2017, NYSOH issued a notice confirming your and your spouse's enrollment in a qualified health plan with \$307.00 per month APTC applied to your monthly premium.

No income documentation was received by NYSOH by February 15, 2018.

On February 21, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to enroll in a qualified health plan at full cost, effective March 1, 2018. The notice stated that you and your spouse were no longer eligible to receive APTC because NYSOH did not receive the necessary income documentation to verify the income listed in your application.

Also on February 21, 2018, NYSOH issued a notice confirming your and your spouse's enrollment in a qualified health plan at full cost, effective January 1, 2018.

On February 22, 2018, you updated your application online and received a preliminary eligibility determination stating that that you and your spouse were eligible for up to \$563.00 per month APTC for a limited time, effective March 1, 2018.

On February 23, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for up to \$563.00 per month APTC for a limited time, effective March 1, 2018. The notice directed you to provide proof of your income by May 23, 2018.

Also on February 23, 2018, NYSOH issued a notice of enrollment confirming your and your spouse's enrollment in a qualified health plan with \$0.00 (zero dollars) of APTC applied, effective January 1, 2018.

Finally, on February 23, 2018, NYSOH issued a notice stating that the documentation reviewed did not confirm the information in your application. You were asked to send additional information to verify your household's income.

On March 6, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible for up to \$480.00 per month APTC for a limited time, effective April 1, 2018. The notice directed you to provide proof of your income by May 23, 2018.

Also on March 6, 2018, NYSOH issued a notice of enrollment confirming your and your spouse's enrollment in a qualified health plan with \$0.00 (zero dollars) of APTC applied, effective January 1, 2018.

On March 7, 2018, NYSOH issued a notice stating that the documentation reviewed did not confirm the information in your application. You were asked to send additional information to verify your household's income.

On March 13, 2018, NYSOH issued a notice of enrollment confirming your and your spouse's enrollment in a qualified health plan with \$480.00 per month APTC applied, effective April 1, 2018.

On March 15, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible for up to \$504.00 per month APTC, effective April 1, 2018.

Also on March 15, 2018, NYSOH issued a notice of enrollment confirming your and your spouse's enrollment in a qualified health plan with \$480.00 per month APTC applied, effective April 1, 2018.

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On March 15, 2018, you spoke to NYSOH's Accounts Review Unit and appealed the March 15, 2018 enrollment confirmation notice insofar as it did not reflect the application of APTC to your March 2018 insurance premium.

On May 7, 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 supports the following findings of fact:

- 1) You testified that you filed this appeal in regard to your and your spouse's eligibility for APTC for the month of March 2018.
- 2) Your account reflects that you intend to file a 2018 tax return with a tax status of married filing jointly, and that you will declare three dependents on that return.
- 3) You testified that you access your NYSOH account online using the screen name [REDACTED]. You also confirmed that you have elected to receive electronic notices from NYSOH regarding your account for several years, and that you "pay attention to the electronic notices" you receive.
- 4) On November 17, 2017, you filed an online financial assistance application for 2018 coverage. In that application, you attested to a projected 2018 household income of \$85,400.00.
- 5) On February 22, 2018, you uploaded a copy of your 2016 tax return reflecting an adjusted gross income of \$208,789.00. You also resubmitted your application at that time, again attesting to \$85,400.00 in projected 2018 household income.
- 6) Also on February 22, 2018, an NYSOH representative reviewed the 2016 tax return you submitted and invalidated that document as proof of your income. That representative also submitted an application for financial assistance.
- 7) Both February 22, 2018 applications resulted in preliminary eligibility determinations notated in your NYSOH account that state that you and your spouse were eligible for up to \$563.00 per month in APTC effective March 1, 2018.
- 8) The eligibility and enrollment tab in your NYSOH account indicates that for the month of March 2018 you and your spouse were eligible for APTC, however \$0.00 in APTC was applied to your March premium.

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- 9) You testified that at no time did you ask to have an APTC award withheld entirely from your monthly premium responsibility.
- 10) On March 13, 2018, NYSOH issued an enrollment confirmation notice stating that \$480.00 per month in APTC would be applied to your premium effective April 1, 2018.
- 11) During your hearing, you gave the Hearing Officer permission to review recordings of your telephone conversations with NYSOH representatives concerning your 2018 coverage.
- 12) The Hearing Officer reviewed telephone records of your conversations with NYSOH and determined the following:
 - a. On February 22, 2018, you refiled your application online while speaking with a NYSOH representative, who confirmed that you had been found eligible for up to \$563.00 per month in APTC. The representative also told you that, in order to maintain your APTC eligibility, you would need to submit further proof of income. You then reviewed possible types of income. At no time were you informed that you had the option to apply some or all of that APTC award to your account for March.
 - b. On February 23, 2018, you reported that you had received three notices that day which appeared to be contradictory. You asked for clarification of your eligibility status, and the NYSOH representative told you he would file a request to have your most recent proof of income reviewed for verification within 3-5 business days. At no time were you told that you had the option to apply some or all of that APTC award to your account for March prior to verification of your income materials.
 - c. On March 2, 2018, you called to report that you were awaiting a response to the proof of income you submitted. A NYSOH representative stated that your proof of income had been invalidated. You reported that you were being charged the full premium amount for March, and that you had expected APTC to be reflected on the bill. The representative replied that you should be receiving APTC for March, and acknowledged a "contradiction" between the most recent eligibility determination and enrollment confirmation notices.
 - d. On March 12, 2018, a NYSOH representative confirmed that APTC had not been applied to your account for March 2018. The

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representative informed you that, following the conclusion of the 2018 coverage year, you would receive an IRS Form 1095A from NYSOH indicating that you had not received an APTC distribution for that month.

- e. On March 15, 2018, a NYSOH representative informed you that APTC could not be applied to your March premium retroactively. However, you would receive the actual amount of premium tax credit to which you are entitled for that month through the filing of IRS Form 8962 with your 2018 tax return.

- 13) You testified that you have already paid the full premium amount you owed for March 2018 and have not experienced any interruption in your 2018 coverage.

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

Applicable Law and Regulations

Effective Date of Advance Payments of the Premium Tax Credit

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)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit 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. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

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Legal Analysis

The issue under review is whether NYSOH properly not apply your and your spouse's advanced premium tax credit to your premium responsibility for the month of March 2018.

On November 17, 2017, you filed a financial assistance application for 2018 coverage where you attested to a projected 2018 household income of \$85,400.00. You and your spouse were determined conditionally eligible for up to \$563.00 per month in APTC, pending proof of income by no later than February 15, 2018. You elected to have \$307.00 per month APTC applied to your coverage, effective January 1, 2018.

No proof of your 2018 income was submitted as of February 15, 2018.

On February 21, 2018, NYSOH issued you a revised eligibility determination stating that you and your spouse were no longer eligible to receive APTC as of March 1, 2018 because you had failed to submit proof of your 2018 income.

On February 22, 2018, you resubmitted your application for 2018 coverage, restating your projected 2018 household income of only \$85,400.00. On the basis of that resubmission, NYSOH issued an updated eligibility determination notice, dated February 23, 2018, stating that you and your spouse were conditionally eligible for up to \$563.00 per month in APTC, effective March 1, 2018.

NYSOH also issued an updated enrollment confirmation notice on February 23, 2018, stating that you and your spouse were enrolled in a qualified health plan with no APTC applied to your premiums, with coverage having begun January 1, 2018.

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. Since your account was updated on February 22, 2018; NYSOH's redetermination of your APTC eligibility for March should have been made effective the first day of the month following the date NYSOH was notified of the change in your eligibility, that is as of March 1, 2018.

However, even though you and your spouse were eligible for APTC as of March 1, 2018, the eligibility and enrollment tab in your NYSOH account indicates that for the month of March 2018 \$0.00 in APTC was applied to your March premium.

You credibly testified that you did not request to have your APTC award withheld for the month of March 2018. Furthermore, review of your calls to NYSOH confirms that not only did you not ask to have the February 23, 2018 APTC award withheld, your call on March 2, 2018 indicates that you expected to have APTC applied to your March premium once your proof of income had been reviewed by NYSOH.

Therefore, the February 23, 2018 and March 6, 2018 enrollment confirmation notices, insofar as they do not apply your and your spouse's APTC to your premium for the month of March 2018, are RESCINDED.

Your case is RETURNED to NYSOH to allow you to elect to receive all or some of your \$563.00 APTC award for March 2018. Once you notify NYSOH of the amount you would like to apply, that APTC should be applied to your premium amount retroactively for March 2018.

The record indicates that you and your spouse are currently eligible for a lower amount of APTC than the amount awarded in your February 23, 2018 eligibility determination. Any difference between the advance premium tax credit you choose to accept (based on your attested 2018 income on February 22, 2018) and the premium tax credit you can claim based on your actual modified adjusted gross income must be reconciled through your 2018 federal tax filing.

Decision

The February 23, 2018 enrollment confirmation notice, as it pertains to you and your spouse, is RESCINDED.

The March 6, 2018 enrollment confirmation notice, as it pertains to you and your spouse, is RESCINDED.

Your case is RETURNED to NYSOH to allow you to elect to receive all or some of your \$563.000 APTC award for March 2018. Once you notify NYSOH of the amount you would like to apply, that APTC should be applied to your premium amount retroactively for March 2018.

Effective Date of this Decision: May 18, 2018

How this Decision Affects Your Eligibility

NYSOH improperly withheld the application of your February 23, 2018 APTC award from your account for March 2018.

Your case is being sent back to NYSOH to allow you to elect some or all of the APTC you and your spouse were eligible for in March 2018 to your March premium.

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).

Any discrepancy in the amount of APTC applied to your premium for that month and what you can claim based on your actual gross income will be reconciled when you file your 2018 federal tax return.

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 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:

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).

- 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 February 23, 2018 enrollment confirmation notice, as it pertains to you and your spouse, is RESCINDED.

The March 6, 2018 enrollment confirmation notice, as it pertains to you and your spouse, is RESCINDED.

Your case is RETURNED to NYSOH to allow you to elect to receive all or some of your \$563.000 APTC award for March 2018. Once you notify NYSOH of the amount you would like to apply, that APTC should be applied to your premium amount retroactively for March 2018.

Any discrepancy in the amount of APTC applied to your premium for that month and what you can claim based on your actual gross income will be reconciled when you file your 2018 federal tax return.

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 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&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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