



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

Notice of Decision

Decision Date: March 29, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025905

[REDACTED]

Dear [REDACTED],

On March 1, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2017 and December 16, 2017 eligibility determination 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
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Decision

Decision Date: March 29, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025905

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine you were eligible to purchase a qualified health plan at full cost and ineligible for advanced payments of the premium tax credit (APTC), effective January 1, 2018?

Procedural History

On December 14, 2017, NYSOH received your initial application for financial assistance with the health insurance.

On December 15, 2017, NYSOH issued an eligibility determination stating you were eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective January 1, 2018. The notice indicated you were not eligible to receive APTC or cost-sharing reductions, because NYSOH was missing information about your taxes. Specifically, the notice stated that you either indicated you would not file a federal tax return, or you were married and would be filing taxes separately from your spouse, or APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH could not determine whether a tax return was filed.

Also on December 15, 2017, NYSOH received an updated application submitted on your behalf. That day a preliminary eligibility determination was created finding you eligible to purchase a QHP at full cost, effective January 1, 2018.

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Additionally, on December 15, 2017, you contacted NYSOH's Account Review Unit and appealed insofar as you were not eligible to receive APTC.

On December 16, 2017, NYSOH issued an eligibility determination, based on your December 15, 2017 updated application, stating you were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018. The notice indicated you were not eligible to receive APTC or cost-sharing reductions, because NYSOH was missing information about your taxes. Specifically, the notice stated that you either indicated you would not file a federal tax return, or you were married and would be filing taxes separately from your spouse, or APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH could not determine whether a tax return was filed.

On March 1, 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 testified that you were seeking APTC for 2018.
- 2) You testified that prior to July 2017, you resided in [REDACTED].
- 3) You testified that you were enrolled in health coverage through the federal marketplace in 2014, 2015, 2016, and part of 2017. You further testified that you received APTC to help pay for your health coverage in each of those years.
- 4) You testified that you are a nanny and you had an issue with the family you worked for in 2015 and 2016 wherein they refused to produce a W2 and they failed to pay required taxes.
- 5) You testified that you attempted to file a tax return in 2015 but the return was rejected by the IRS, because the employer identification number listed on that return was not accurate.
- 6) You testified that you have not yet attempted to file a tax return for the 2016 tax year, because of outstanding tax issues.
- 7) You testified that you intend to file a tax return for 2017 and 2018.
- 8) The initial application for financial assistance with your health insurance was received by NYSOH on December 14, 2017. That application listed your annual expected income as \$46,700.00.

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- 9) Another updated application was submitted on your behalf the following day reducing your attested annual income to \$38,900.00.
- 10) You testified that you were unsure if the income information in your applications was accurate, because your income fluctuates every quarter.
- 11) Both applications indicated you were not married and you would file your 2018 tax return with a tax filing status of single and claim no dependents. You testified that information was accurate.
- 12) According to your account, following both of your applications, NYSOH determined you were ineligible for APTC, effective January 1, 2018, because it could not confirm with federal data sources that you had filed a tax return for each year in which you received APTC and reconciled the APTC received on those tax returns.
- 13) You appealed the determinations insofar as you were not eligible for APTC.
- 14) Your applications indicate that you reside in [REDACTED].

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

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

People who use 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).

NYSOH may not determine a tax filer eligible for APTC if APTC was paid on the

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tax filer's behalf in a previous year, and a tax return was not filed for that previous year (45 CFR §155.305(f)(4)).

For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

Legal Analysis

The issue under review is whether NYSOH properly determined you were eligible to purchase a QHP at full cost and ineligible for APTC, effective January 1, 2018.

On December 14, 2017 and December 15, 2017, NYSOH received applications for financial assistance with your health coverage for the 2018 coverage year. Both application indicated you were not married and you would file your 2018 tax return with a tax filing status of single. You testified this information was accurate. The applications listed annual expected income of \$46,700.00 and \$38,900.00, respectively. Although you testified you were unsure if the income information in your applications was accurate, because your income fluctuates every quarter, the subject eligibility determinations relied upon the information attested to in those applications.

According to your account, NYSOH determined you ineligible for APTC, effective January 1, 2018, because it could not confirm with federal data sources that you had filed a tax return for each year in which you received APTC and reconciled the APTC received on those tax returns. You appealed those determinations insofar as you were not eligible to receive APTC for 2018.

Pursuant to the above cited regulations, applicants who use APTC to help pay for health insurance premiums must file a federal tax return and reconcile their expected income as stated on their NYSOH application, with their actual income as stated on their federal income tax return. NYSOH may not determine a tax filer eligible for APTC if APTC was paid on the tax filer's behalf in a previous year, and a tax return was not filed for that year.

You testified that you were enrolled in health coverage through the federal marketplace in 2014, 2015, 2016, and part of 2017. You further testified that you received APTC to help pay for your health coverage in each of those years.

You testified that you have had tax issues because of your employer from 2015 and 2016 refusing to produce a W2 for a period time and failing to pay required taxes. As a result, you testified that although you attempted to file a federal tax return for 2015, that return was rejected by the IRS, because the employer identification number listed on that return was not accurate. Additionally, you

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testified that due to your outstanding tax issues, you have not yet attempted to file a tax return for the 2016 tax year.

Based on the evidence that you received APTC in 2015 and 2016 and failed to file a tax return and reconcile the tax credits received in those years on those tax returns, pursuant to the regulations, you are not eligible for APTC through NYSOH for 2018.

Therefore, the December 15, 2017 and December 16, 2017 eligibility determination notices stating you were eligible to purchase a full cost QHP and ineligible for APTC, effective January 1, 2018, were correct and are AFFIRMED.

Decision

The December 15, 2017 and December 16, 2017 eligibility determination notices are AFFIRMED.

Effective Date of this Decision: March 29, 2018

How this Decision Affects Your Eligibility

You are not eligible to receive APTC through NYSOH until NYSOH can verify that you filed a federal tax return in each prior year that you received APTC and that the APTC received in each of those years is reconciled on those tax returns.

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)).

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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 December 15, 2017 and December 16, 2017 eligibility determination notices are AFFIRMED.

You are not eligible to receive APTC through NYSOH until NYSOH can verify that you filed a federal tax return in each prior year that you received APTC and that the APTC received in each of those years is reconciled on those tax returns.

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&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.

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