



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: AP000000025596

[REDACTED]

Dear [REDACTED],

On March 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 12, 2017 eligibility determination 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 29, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025596

[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 11, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on your behalf. That day a preliminary eligibility determination was created finding you eligible to purchase a qualified health plan (QHP) at full cost, effective January 1, 2018.

Also on December 11, 2017, you contacted NYSOH's Account Review Unit and appealed insofar as you were no longer eligible to receive APTC.

On December 12, 2017, NYSOH issued an eligibility determination, based on your December 11, 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.

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On March 2, 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 March 23, 2018 to allow you to submit supporting documentation.

On March 22, 2018, the Appeals Unit received your documentation which was incorporated into the record as Appellant's Exhibit # 1. The record 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, and your account confirms, you received APTC in 2016.
- 3) On December 11, 2017, two updated applications for financial assistance with health coverage for the 2018 coverage year were submitted.
- 4) Both applications indicated you were not married and you would file your 2018 tax return with a tax filing status of single. You testified that information was accurate.
- 5) The first application submitted on December 11, 2017 listed your annual expected annual income for 2018 as \$28,000.00.
- 6) The second application filed on December 11, 2017 listed your annual expected income for 2018 as \$25,000.00, which included a \$3,000.00 IRA deduction.
- 7) You testified that the income information in your applications was accurate, because you expect to earn approximately \$28,600.00 in 2018 through your employment.
- 8) According to your account, following the final application submitted on December 11, 2017, NYSOH determined you were ineligible for APTC, effective January 1, 2018, because it could not confirm with federal data sources that you had filed your 2016 tax return and reconciled the tax credits received in that year.
- 9) You appealed that determination insofar as you were not eligible for APTC.
- 10) You testified that you filed a tax return for 2016 and your accountant advised you that your tax credits had been reconciled on that return, or you would not have been able to receive a tax refund for that year.

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- 11) You were directed to submit an IRS tax return transcript for 2016.
- 12) On March 22, 2017, the Appeals Unit received a copy of an IRS tax return transcript for the tax year ending on December 31, 2016. That transcript confirmed that your 2016 tax return had been filed on April 15, 2017. That transcript did not contain form 8962.
- 13) Your applications indicate that you reside in Kings County.

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

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability 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)).

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 tax filer's behalf in a previous year, and a tax return was not filed for that previous

year to reconcile these advance payments with what the taxpayer was determined eligible for at the time of filing a tax return for that 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 only at full cost, effective January 1, 2018.

On December 11, 2017, multiple updated applications for financial assistance with health coverage for the 2018 coverage year were submitted on your behalf. 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 final application submitted that day, upon which the eligibility determination at issue was based on, listed your annual expected income for 2018 as \$25,000.00 which included a \$3,000.00 IRA deduction.

According to your account, NYSOH determined you are ineligible for APTC, effective January 1, 2018, because it could not confirm with federal data sources that you had filed your 2016 tax return and reconciled the tax credits received in that year. You appealed that determination insofar as you were not eligible for APTC.

Pursuant to the above cited regulations, applicants who use APTC to help pay 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 (which determines your final eligibility for the premium tax credit).

You testified, and your account confirms, that you received APTC in 2016. Although you testified that you filed a tax return for 2016 and reconciled the APTC you received that year on that tax return, data sources relied upon by NYSOH did not confirm this. Therefore, you were directed to submit a copy of an IRS tax return transcript for your 2016 tax return.

On March 22, 2017, the Appeals Unit received a copy of an IRS tax return transcript for the tax year ending on December 31, 2016. That transcript confirmed that your 2016 tax return had been filed on April 15, 2017. However, the transcript did not contain any information regarding form 8962, the form filed with your tax return to reconcile the tax credits received that year. Since the 2016

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tax return transcript does not contain any information regarding form 8962, the record is insufficient to establish that the tax credits you received in 2016 were reconciled on that year's tax return. Thus, based on the above cited regulations, you are not eligible to receive tax credits until you can establish that the tax credits you received in 2016 have been reconciled.

Therefore, the December 12, 2017 eligibility determination notice stating you were eligible to purchase a full cost QHP and ineligible for APTC, effective January 1, 2018, was correct and is AFFIRMED.

Decision

The December 12, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 29, 2018

How this Decision Affects Your Eligibility

You are not eligible to receive advance payments of the premium tax credits through NYSOH until NYSOH can verify that the tax credits you received in 2016 have been reconciled.

This decision does not affect subsequent eligibility determinations.

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 12, 2017 eligibility determination notice is AFFIRMED.

You are not eligible to receive advance payments of the premium tax credits through NYSOH until NYSOH can verify that the tax credits you received in 2016 have been reconciled.

This decision does not affect subsequent eligibility determinations.

Legal Authority

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).

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 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.

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