



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

Notice of Decision

Decision Date: March 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027272

[REDACTED]

Dear [REDACTED],

On March 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 12, 2018 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 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.

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 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027272

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that you were ineligible for Essential Plan as of January 12, 2018?

Did NYSOH properly determine that you were ineligible for advance payments of the premium tax credit (APTC) as of January 12, 2018?

Procedural History

On January 9, 2018, you submitted an application for financial assistance through NYSOH.

On January 10, 2018, NYSOH issued two notices:

- (1) An eligibility determination notice stating that you were eligible to enroll in the Essential Plan with a \$20.00 premium per month for a limited time, effective February 1, 2018. The notice instructed you to submit proof of your income by April 9, 2018, to confirm your eligibility;
- (2) A plan enrollment notice confirming that as of January 9, 2018, you were enrolled in an Essential Plan with an enrollment start date of February 1, 2018.

Also on January 10, 2018, you uploaded additional documentation to your NYSOH account (see Documents [REDACTED])

On January 11, 2018, your NYSOH account was updated.

On January 12, 2018, NYSOH issued an eligibility determination notice stating, in relevant parts, that you were newly eligible to purchase a qualified health plan at full cost, effective February 1, 2018. Further, you were ineligible for the Essential Plan because you did not meet the income limit, and you were ineligible to receive APTC because you are married and did not plan to file your federal income tax return jointly with your spouse.

Also on January 12, 2018, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end on February 1, 2018, because you were no longer eligible to enroll in the Essential Plan.

On January 16, 2018, you spoke with NYSOH's Account Review Unit and requested an appeal relative to your ineligibility for the Essential Plan and APTC.

On March 23, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken and the record was fully developed during the hearing. The record was closed at the end of the hearing.

Findings of Fact

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

- 1) According to your NYSOH account and testimony, you are seeking insurance for yourself.
- 2) According to your NYSOH account and testimony, you expect to file a 2018 federal income tax return with the tax status of single and do not expect to claim any dependents on that return.
- 3) According to your January 9, 2018 application, you attested to an expected 2018 income of \$23,400.00.
- 4) According to your NYSOH account and testimony, you do not expect to claim any deductions on your 2018 federal income tax return.
- 5) You testified that you are employed at [REDACTED], and that is your only source of income.

6) On January 10, 2018, you submitted your last four paystubs. The paystubs reflect that you were issued federal taxable wages of:

- (a) \$804.00 on December 15, 2017;
- (b) \$864.00 on December 22, 2017;
- (c) \$468.00 on December 29, 2017;
- (d) \$216.00 on January 5, 2018

(see Documents [REDACTED])

- 7) According to your January 9, 2018 application, your marital status is separated.
- 8) You testified that you are legally married; however, you have not lived with your spouse in four years.
- 9) You testified that you have not completed the divorce process because you are unable to afford it.
- 10) You testified that your spouse lives in [REDACTED] New York.
- 11) According to your NYSOH account, you reside in [REDACTED] New York.
- 12) You testified that you currently reside with your girlfriend and your child. You and your girlfriend are the parents of the child that you reside with.

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

Applicable Law and Regulations

Income Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow the NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f); 42 CFR §600.345 (a)) See also New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2017 FPL, which is \$12,060.00 for a one-person household (82 Federal Register 8831).

Advance Payments of the Premium Tax Credit

APTC is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable 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 QHP, 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)).

If a tax filer is married, they must file a joint return with his or her spouse to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all the following criteria:
 - a. files a separate return from his/her spouse and maintains his/her household as the principal place of abode of a qualifying child with respect to whom such individual is entitled to a deduction for the taxable year;

- b. pays more than one half of the cost of keeping up his/her home for the tax year; and
- c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

A qualifying child is an individual who is:

- a. a son, daughter, stepson, or stepdaughter of the taxpayer; or
- b. an eligible foster child of the taxpayer

(26 USC § 152(f)(1)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were ineligible for the Essential Plan.

On January 9, 2018, you applied for financial assistance through NYSOH and attested to an expected income of \$23,400.00. The income information attested to did not match federal and state data sources. As a result, on January 10, 2018, NYSOH issued a notice directing you to submit additional income documentation to confirm your eligibility.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income. If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

On January 10, 2018, you submitted your last four paystubs. The paystubs reflected that you were issued federal taxable wages of: \$804.00 on December 15, 2017; \$864.00 on December 22, 2017; \$468.00 on December 29, 2017; \$216.00 on January 5, 2018 (see Documents [REDACTED]). Based on the documentation submitted, NYSOH calculated your expected 2018 income to be (\$804.00 (+) \$864.00 (+) \$468.00 (+) \$216.00 X 13 periods) \$30,576.00.

You testified that you expect to file a 2018 federal income tax return, with the tax status of single, and did not expect to claim any dependents on that tax return. Therefore, you are in a one-person household. An annual income of \$30,576.00 is 253.53% of the 2017 FPL for a one-person household.

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).

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. Since an annual household income of \$30,576.00 is 253.53% of the 2017 FPL, NYSOH properly found you to be ineligible for the Essential Plan as of January 12, 2018.

The second issue under review is whether NYSOH properly determined that you were ineligible for APTC.

In the eligibility determination notice issued on January 12, 2018, NYSOH denied you APTC because you indicated that you were married but did not expect to file a joint federal income tax return with your spouse.

To qualify for APTC, a person who is married must either file their federal income tax return jointly with their spouse or qualify as “not married” at the end of the taxable year.

The record reflects that you are still married and have not obtained a decree of divorce or of separate maintenance. You have not lived together for approximately four years; however, you have not been able to obtain a divorce because you are unable to afford the divorce process.

A tax filer may be treated as “not married” at the close of the taxable year, which makes them eligible for APTC. The tax filer must maintain their household as the primary home for a qualifying child and be entitled to claim the child as a dependent on their return for the taxable year.

You testified that you currently reside with your girlfriend and your child. However, the record reflects that you do not expect to claim any dependents on your 2018 federal income tax return. Therefore, the record does not support a finding that you meet the necessary requirements to be considered “not married.”

Your tax filing status does not qualify you for APTC because you are not legally separated from your spouse under a decree of divorce or separate maintenance. Further, you do not have a qualifying child that you expect to claim as an exemption on your 2018 federal income tax return.

Therefore, the January 12, 2018, eligibility determination notice is AFFIRMED insofar as it stated you were ineligible for the Essential Plan and APTC.

Decision

The January 12, 2018, eligibility determination notice is AFFIRMED insofar as it stated you were ineligible for the Essential Plan and APTC.

Effective Date of this Decision: March 30, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility for or enrollment in health insurance through NYSOH in 2018.

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 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).

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 January 12, 2018, eligibility determination notice is AFFIRMED insofar as it stated you were ineligible for the Essential Plan and APTC.

This decision does not change your eligibility for or enrollment in health insurance through NYSOH in 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، 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 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 אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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