



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

Notice of Decision

Decision Date: April 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013698

[REDACTED]

Dear [REDACTED],

On March 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 2, 2016 eligibility redetermination 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

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 sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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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 to receive advance payments of the premium tax credit (APTC), effective January 1, 2017?

Did NY State of Health properly determine that you were not eligible for cost-sharing reductions?

Procedural History

On December 1, 2016, NYSOH received your completed application for health insurance. That day, a preliminary eligibility determination was prepared finding you eligible to purchase a qualified health plan (QHP) at full cost, effective January 1, 2017.

Also on December 1, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were denied financial assistance.

On December 2, 2016, NYSOH issued an eligibility redetermination notice stating that you were eligible to purchase a QHP at full cost, effective January 1, 2017.

On March 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open until March 21, 2017 for you to submit proof of your household income. On March 15, 2017, you submitted a

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copy of your executed 2016 income tax return, which was made part of the record as "Appellant's Exhibit A." No further documentation was submitted as of March 21, 2017 and the record was closed that day.

Findings of Fact

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

- 1) According to your NYSOH account and your testimony, you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on December 1, 2016 listed annual household income of \$75,000.00 that your spouse earns from his employment. You testified that you were unsure if this amount was correct.
- 4) Your application also listed a student loan interest deduction in the amount of \$2,000.00.
- 5) Your modified adjusted gross household income, as attested to in your December 1, 2016 application, was calculated by NYSOH to be \$73,000.00 (75,000.00 - \$2,000.00).
- 6) You testified that you are currently unemployed, however you are receiving \$430.00 per week in unemployment benefits, which is due to end May 28, 2017. You testified that you expect to receive 22 benefit payments of \$430.0 per week in 2017, which equals \$9,460.00.
- 7) You submitted your 2016 federal tax return showing your spouse's earned income was \$73,260.00 from employment that year.
- 8) Because you are no longer working, your 2016 employment income is not counted for purposes of your eligibility for health insurance through NYSOH in 2017.
- 9) Your unemployment benefits of \$9,460.00 are included in your household's income for purposes of eligibility through NYSOH in 2017.
- 10) You testified and submitted documentation to show that you had allowable deductions from your income. Your 2016 tax return shows deductions in the form of a student loan interest of \$2,500.00 and your spouse's business expense deduction of \$10,403.00, for a total of \$12,903.00 in

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deductions. It is unclear from the record whether these amounts will be comparable in 2017.

11) You live in [REDACTED] County, New York.

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

Applicable Law and Regulations

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

Business Expenses Deduction

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a trade or business may be deductions from a taxpayer’s adjusted gross income (26 USC § 62 (a)(1)).

Student Loan Interest Deductions

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; see also 26 USC § 62 (17)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally 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 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 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)).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your applications, that was the 2016 FPL which was \$16,020.00 for a two-person household in 2017 (81 Fed. Reg. 4036).

People who use the 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).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were ineligible for advance payments of the premium tax credit as of January 1, 2017.

On your December 1, 2016 application, you attested to an expected modified adjusted gross household income of \$73,000.00. Notwithstanding the fact that you testified and submitted documentation reflecting that your expected modified adjusted gross income for 2017 will be greater, NYSOH relied upon your attested to income information in your application.

You are in a two-person household for purposes of this analysis. This is because you expect to file your 2017 income taxes as married filing jointly and will claim no dependents on those tax returns.

Advance payments of the premium tax credit is available to a person who has a household income no greater than 400% of the FPL. In an evaluation of your

eligibility for financial assistance in 2017, an annual income of \$73,000.00 is 455.68% of the 2016 FPL of \$16,020.00 for a two-person household.

Since a household income of \$73,000.00, which you attested to in your December 1, 2016 application, is 455.68% of the applicable FPL for 2017 for a two-person household, NYSOH correctly found you to be ineligible for APTC, effective January 1, 2017.

It is noted that an income greater than \$73,000.00 even with allowable deductions, would result in an even higher FPL percentage and would also be over 400% of the applicable FPL.

The second issue under review is whether you were properly found ineligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$73,000.00 is 455.68% of the applicable FPL for 2017, NYSOH correctly found you to be ineligible for cost sharing reductions, effective January 1, 2017.

Therefore, the December 2, 2016 eligibility redetermination notice stating that, effective January 1, 2017, you were eligible to purchase a QHP at full cost and ineligible for APTC and cost sharing reductions is AFFIRMED.

Decision

The December 2, 2016 eligibility redetermination notice is AFFIRMED.

Effective Date of this Decision: April 10, 2017

How this Decision Affects Your Eligibility

You remain ineligible for APTC in 2017

You are ineligible for cost-sharing reductions in 2017.

If your circumstances change and your household income and allowable deductions can be projected for 2017, you can update your NYSOH account and are required to do so within 30 days of any such reportable change or life-changing event.

If You Disagree with this Decision (Appeal Rights)

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).

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:

- 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

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- By fax: 1-855-900-5557

Summary

The December 2, 2016 eligibility redetermination notice is AFFIRMED.

You remain ineligible for APTC in 2017

You are ineligible for cost-sharing reductions in 2017.

If your circumstances change and your household income and allowable deductions can be projected for 2017, you can update your NYSOH account and are required to do so within 30 days of any such reportable change or life-changing event.

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 bεtumi 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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