



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

Notice of Decision

Decision Date: May 03, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014058

[REDACTED]

Dear [REDACTED],

On March 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 9, 2016 and December 16, 2016 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
P.O. Box 11729
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Decision

Decision Date: May 03, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014058



Issue

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

Did NY State of Health (NYSOH) properly determine that you were not eligible for advance payments of the premium tax credit (APTC) effective January 1, 2016?

Procedural History

On December 8, 2016, you submitted several applications for financial assistance to NYSOH.

On December 9, 2016, NYSOH issued an eligibility determination stating that you were eligible to purchase a qualified health plan (QHP) at full cost, effective January 1, 2017. The notice stated that you were not eligible for APTC because you stated that either you were married but not filing taxes jointly, you were married and filing taxes separately from your spouse, or APTC payments were made to you in a prior year for which you did not file a tax return. The notice did not specify which of these three factors were responsible for your ineligibility. It also stated that you did not qualify for cost-sharing reductions because you were not eligible for APTC.

On December 15, 2016, you updated your application for health insurance. That day, a preliminary eligibility determination was prepared stating you were eligible for a full price QHP but did not qualify for APTC or cost-sharing reductions, effective January 1, 2017.

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Also on December 15, 2016, you spoke to NYSOH's Account Review Unit and appealed that preliminary determination insofar as you were not eligible for APTC effective January 1, 2017.

On December 16, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in a full price QHP, effective January 1, 2017. The notice stated that you were not eligible for APTC because you stated that either you were married but not filing taxes jointly, you were married and filing taxes separately from your spouse, or APTC payments were made to you in a prior year for which you did not file a tax return and that you were not eligible for cost-sharing reductions because you were not eligible for APTC.

On March 24, 2017, 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 are looking to be eligible for APTC to help with the cost of enrolling in a health plan, and that you are looking to enroll in coverage retroactively to January 1, 2017.
- 2) You testified that you filed your 2015 income tax return with a tax filing status of head of household with a qualifying individual and plan to do so on your 2016 tax return.
- 3) You testified that you are looking for coverage for yourself only.
- 4) You testified that you are currently married, but that you are legally separated from your spouse, and that the divorce will be finalized in July or August of 2017.
- 5) You testified that you have not lived with your spouse in several years.
- 6) The record reflects that you have one child who resides with you. He is [REDACTED] years old.
- 7) You testified that you pay more than half of the cost of maintaining your household.
- 8) Your December 15, 2016 application stated that you expected 2016 income is approximately \$37,500.00, and your testimony confirmed this.
- 9) Your application states that you reside in [REDACTED].

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

Applicable Law and Regulations

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 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)).

Additionally, a tax filer who is married 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 primary home for a qualifying child;
 - 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).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for APTC effective January 1, 2017.

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On December 8, 2016, you submitted several applications for financial assistance to NYSOH.

In the eligibility determination notice issued on December 9, 2016 and subsequently on December 16, 2016, NYSOH denied you APTC because you indicated that you were married but did not plan to file a joint federal income tax return.

To qualify for APTC, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the information in the record and your testimony at the hearing, you are still married to your spouse but are legally separated. You have not obtained a decree of divorce although you testified that the divorce will be finalized in July or August 2017. Also, you confirmed that you do not plan to file a joint federal income tax return with your spouse for the 2017 tax year.

However, there is an exception, as noted above, that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for APTC.

You credibly testified and your NYSOH account reflects that: (1) you expect to claim your child as a dependent and that your child lives with you full-time, (2) you will pay more than one-half of the cost of keeping up your home for 2017, and (3) your spouse has not been a member of the household in several years and you expect that to remain the case for 2017. Therefore, the record supports a finding that you are a head of household with a qualifying dependent and so qualify to be treated as “not married”.

For this reason, the December 9, 2016 and December 16, 2016 eligibility determination notices are RESCINDED.

Your case is RETURNED to NYSOH to re-determine your eligibility for financial assistance for 2017, based on a household of two with an expected annual income of \$37,500.00, residing in [REDACTED].

NYSOH is directed to notify you immediately of your eligibility, and to assist you in enrolling in a QHP, with a plan start date as early as January 1, 2017, should you choose to enroll in a plan.

Decision

The December 9, 2016 and December 16, 2016 eligibility determination notices are RESCINDED.

Your case is RETURNED to NYSOH to re-determine your eligibility for financial assistance for 2017, based on a household of two with an expected annual income of \$37,500.00, residing in [REDACTED] and a tax filing status of "Head of Household."

Effective Date of this Decision: May 03, 2017

How this Decision Affects Your Eligibility

NYSOH's determination that you were not eligible to receive APTC on the basis that you were married but filing your taxes separately was not correct.

Your case is RETURNED to NYSOH to re-determine your eligibility for financial assistance for 2017, based on a household of two with an expected annual income of \$37,500.00, residing in [REDACTED] and a tax filing status of "Head of Household."

NYSOH will inform you of your eligibility and will assist you in enrolling in a health plan with a start date of January 1, 2017, should you decide to enroll in a health plan.

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:

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).

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 9, 2016 and December 16, 2016 eligibility determination notices are RESCINDED.

NYSOH's determination that you were not eligible to receive APTC on the basis that you were married but filing your taxes separately was not correct.

Your case is RETURNED to NYSOH to re-determine your eligibility for financial assistance for 2017, based on a household of two with an expected annual income of \$37,500.00, residing in [REDACTED] and a tax filing status of "Head of Household."

NYSOH will inform you of your eligibility and will assist you in enrolling in a health plan with a start date of January 1, 2017, should you decide to enroll in a health plan.

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

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 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&tumi 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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