



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

Notice of Decision

Decision Date: June 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014478

[REDACTED]

Dear [REDACTED]

On March 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 31, 2016 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: June 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014478

[REDACTED]

Issue

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

Did NYSOH properly determine that you were not eligible to receive advance premium tax credits (APTC) as of February 1, 2017 because you had not filed a federal income tax return in a year for which APTC was paid on your behalf?

Procedural History

On October 25, 2016, you updated your application with NYSOH.

On October 26, 2016, NYSOH issued an eligibility determination stating that you were eligible to purchase a QHP at full cost, effective December 1, 2016. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because APTC was paid to your health insurance company to reduce your premium costs in a prior year, and NYSOH could not ascertain if a federal tax return was filed for that year.

On October 27, November 4, and December 15, 2016, NYSOH issued further eligibility determinations identical to the determination above.

On December 30, 2016, you updated your NYSOH account. On that date a preliminary eligibility determination was made stating that you were eligible to purchase a qualified health plan only at full cost, effective February 1, 2017.

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Also, on December 30, 2016, you spoke to NYSOH's Account Review Unit and appealed your eligibility determination insofar as you were not eligible for APTC.

On December 31, 2016, NYSOH issued an eligibility determination stating that you were eligible to purchase a qualified health plan only at full cost, effective February 1, 2017. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH was missing information about your taxes, which could be for one of several reasons. One reason would be if APTC was paid to your health insurance company to reduce your premium costs in a prior year, and NYSOH could not ascertain if a federal tax return was filed for that year.

On March 10, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open until April 17, 2017 for submittal of supporting documentation.

No documentation was received by April 17, 2017.

Findings of Fact

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

- 1) NYSOH records reflect that you received APTC in 2014.
- 2) NYSOH records reflect that you did not file a 2014 income tax return.
- 3) NYSOH records reflect that you did not receive APTC in 2015.
- 4) NYSOH records reflect that you received APTC in 2016.
- 5) You testified that you filed your 2016 tax return in February 2017.
- 6) You testified that a NYSOH representative advised you in late December 2016 that there was an issue with your receipt of APTC because there was a year in which there was no record of you having filed a federal tax return.
- 7) At the hearing, the Hearing Officer directed you to provide an IRS Account Transcript to show proof of filing your tax return.
- 8) You failed to fax or upload an Account Transcript to your NYSOH account or to the NYSOH Appeals Unit.
- 9) You testified that you are appealing your ineligibility for APTC effective February 1, 2017.

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 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)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). 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)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant

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demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for APTC as of February 1, 2017 because you had not filed a federal income tax return.

On October 26, 2016, NYSOH issued an eligibility determination stating that you were eligible to purchase a QHP at full cost, effective December 1, 2016. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH was missing information about your taxes, which could be for one of several reasons. One reason would be if APTC was paid to your health insurance company to reduce your premium costs in a prior year, and NYSOH could not ascertain if a federal tax return was filed for that year.

On October 27, November 4, and December 15, 2016, NYSOH issued further eligibility determinations identical to the determination above.

On December 30, 2016, you updated your NYSOH account.

On December 31, 2016, an eligibility determination notice was issued, stating that you were eligible to purchase only a full cost QHP through NYSOH, effective February 1, 2017, because NYSOH had received information that APTC had been paid on your behalf for a year in which you did not file a tax return.

NYSOH records reflect that you received APTC in both 2014 and 2015, and NYSOH could not confirm that you filed a federal income tax return for either year.

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If income data is unavailable, NYSOH must request additional information from the applicant to resolve the inconsistency.

At the hearing, the Hearing Officer directed you to provide an IRS Account Transcript to show proof of filing a federal tax return.

However, you failed to fax or upload any Account Transcript to your NYSOH account or to the NYSOH Appeals Unit.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources.

Since the data sources reflected that you had not filed a tax return in two years that you received APTC, and there has been no evidence presented to prove otherwise, the December 31, 2016 eligibility determination notice finding you eligible for a full cost QHP was correct and must be AFFIRMED.

Decision

The December 31, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 5, 2017

How this Decision Affects Your Eligibility

This decision does not affect your APTC eligibility.

NYSOH correctly found that you were not eligible for APTC as of February 1 2017.

Please be advised that as long as you are enrolled in a qualified health plan that you are entitled to request a redetermination of your APTC eligibility at any time. You may also be able to request the tax credit at the time you file your tax return.

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.

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).

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
- By fax: 1-855-900-5557

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Summary

The December 31, 2016 eligibility determination notice is AFFIRMED.

NYSOH correctly found that you were not eligible for APTC as of February 1 2017.

This decision does not affect your APTC eligibility.

Please be advised that as long as you are enrolled in a qualified health plan that you are entitled to request a redetermination of your APTC eligibility at any time. You may also be able to request the tax credit at the time you file your tax return.

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)

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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।

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&etumi 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.

אײִדיש (Yiddish)

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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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