



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

Notice of Decision

Decision Date: June 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015383

[REDACTED]

Dear [REDACTED],

On May 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 3, 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 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
P.O. Box 11729
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Decision

Decision Date: June 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015383



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 and your spouse were not eligible to receive advance payments of the premium tax credit, effective January 1, 2017, because you had not filed a 2015 federal income tax return?

Procedural History

On November 14, 2015, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to receive advance payments of the premium tax credit (APTC) of up to \$481.00 per month, and cost-sharing reductions if you enrolled in a silver level qualified health plan (QHP), both effective December 1, 2015.

Also on November 14, 2015, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in a QHP, with APTC applied, effective December 1, 2015.

On November 22, 2015, NYSOH issued an eligibility determination notice, based on your November 16, 2015 updated application, stating you and your spouse were eligible to receive up to \$475.00 in APTC, as well as cost-sharing reductions if you enrolled in a silver level QHP, both effective January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in a QHP with APTC applied, effective January 1, 2016.

On October 15, 2016, NYSOH issued a notice stating it was time for you and your spouse to renew your health coverage for the upcoming coverage year. The notice stated that based on federal and state data sources, NYSOH was unable to decide whether you and your spouse would qualify for financial help paying for your health coverage. The notice directed you to update your account by December 15, 2016 or you and your spouse might lose the financial assistance you were receiving.

On November 26, 2016, NYSOH issued a disenrollment notice stating the coverage through the QHP you and your spouse were enrolled in would end on December 31, 2016, because you and your spouse were no longer eligible to enroll in the plan.

On December 3, 2016, NYSOH issued an eligibility determination notice, based on your December 2, 2016 updated application, stating you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017. The notice further stated you and your spouse were not eligible for a tax credit, because NYSOH was missing information about your taxes, which could be because of one of three reasons: you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

On December 12, 2016, an updated application was submitted on behalf of you and your spouse.

On December 13, 2016, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017. The notice further stated you and your spouse were not eligible for a tax credit, for the same reason noted above.

Also on December 13, 2016, NYSOH issued an enrollment notice, based on your December 12, 2016 plan selection, confirming you and your spouse were enrolled in a QHP with no APTC applied, effective January 1, 2017.

On December 17, 2016, December 17, 2016, January 10, 2017, January 11, 2017, NYSOH issued eligibility determination notices, based on your updated applications, stating you and your spouse were eligible to purchase a QHP at full cost. The notices indicated you and your spouse were not eligible for a tax credit, again for the same reasons.

On January 31, 2017, NYSOH received your updated application for financial assistance with health insurance. That day a preliminary eligibility determination

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was prepared finding you and your spouse eligible to purchase a QHP at full cost and ineligible for APTC, effective March 1, 2017.

Also on January 31, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility of you and your spouse insofar as you and your spouse were not eligible for APTC as of January 1, 2017.

On February 1, 2017, NYSOH issued an eligibility determination notice, based on your January 31, 2017 updated application, stating you and your spouse were eligible to purchase a QHP at full cost, effective March 1, 2017. The notice indicated you and your spouse were not eligible for a tax credit, again for the same reason noted above.

On May 8, 2017, 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 allow you to submit supporting documents.

Also on May 8, 2017, NYSOH received the requested documentation and it 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, and your account confirms, you and your spouse enrolled in a QHP with APTC, effective December 2015.
- 2) According to your account, you and your spouse renewed your coverage for the 2016 coverage year and enrolled in a new QHP with APTC applied, effective January 1, 2016.
- 3) On December 2, 2016, an updated application was submitted on behalf of you and your spouse to renew your coverage for the 2017 coverage year. In that application and those subsequently submitted, you indicated that you would be filing a tax return as married filing jointly.
- 4) NYSOH was unable to confirm that you and your spouse had filed a tax return for the 2015 tax year, a year during which you had received APTC. You and your spouse were determined ineligible to receive APTC, effective January 1, 2017.
- 5) You and your spouse enrolled in a full cost QHP with no APTC applied, effective January 1, 2017.

- 6) Several updated applications were submitted on behalf of you and your spouse in December 2016, January 2017, and February 2017, and you and your spouse were determined ineligible to receive APTC because NYSOH was unable to confirm you and your spouse had filed a tax return for the 2015 tax year.
- 7) According to your account, an updated application was submitted on behalf of you and your spouse on February 13, 2017 reducing your attested household income to \$30,756.00. Based on this information, NYSOH determined you and your spouse conditionally eligible to enroll in the Essential Plan, effective March 1, 2017. Proof of your household's income was requested by May 14, 2017 to confirm the eligibility of you and your spouse to remain enrolled in the Essential Plan.
- 8) You and your spouse were disenrolled from your full cost QHP, effective February 28, 2017, and enrolled into as Essential Plan, effective March 1, 2017.
- 9) You testified, and your account confirms, you and your spouse were enrolled in a full cost QHP with no APTC applied for the months of January and February 2017.
- 10) You testified you are seeking reinstatement of your APTC for the months of January and February 2017.
- 11) You testified you and your spouse filed your 2015 tax return in October 2016.
- 12) On May 8, 2017, NYSOH Appeals Unit received a copy of the Tax Return Transcripts from the Internal Revenue Service (IRS) establishing the tax return for you and your spouse for the 2015 tax year was received by the IRS on October 6, 2016 [REDACTED]).

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

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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 in order 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 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)).

Legal Analysis

The issue under review is whether NYSOH properly determined you and your spouse were not eligible to receive APTC, effective January 1, 2017, because you and your spouse had not filed a 2015 federal income tax return.

On December 2, 2016, NYSOH received several updated applications for financial assistance with health insurance submitted on behalf of you and your spouse. The final application submitted listed your expected annual income household income for 2017 as \$38,382.82 and indicated you and your spouse would be filing your 2017 tax return with a tax filing status of married filing jointly. NYSOH redetermined the eligibility of you and your spouse for financial assistance on December 2, 2016, based on the information in this application, and determined you and your spouse were not eligible to receive APTC, because NYSOH was unable to confirm, through federal and state data sources, that you and your spouse had filed a tax return for the 2015 tax year.

Pursuant to the regulations, people who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income with their actual income.

You testified, and your account confirms, you and your spouse received APTC in December 2015. You testified that you and your spouse filed a tax return for 2015 tax year, but that you were granted an extension to file the tax return late. Although, to date, NYSOH has been unable to confirm through federal and state data sources that you and your spouse filed a tax return for the 2015 tax year, you submitted a copy of a Tax Return Transcript establishing the IRS received your 2015 tax return on October 6, 2016. Accordingly, the evidence establishes you and your spouse filed a tax return for the 2015 tax year.

Since the December 3, 2016 eligibility determination notice stated you and your spouse were not eligible for a tax credit, effective January 1, 2017, because you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC, the determination is no longer supported by the record and must be **RESCINDED**.

Additionally, the subsequent eligibility determination notices issued by NYSOH in December 2016, January 2017, and February 2017 stating you and your spouse were not eligible for a tax credit, because you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC, are similarly no longer supported by the record and must be **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine the eligibility of you and your spouse, as of December 2, 2016, based on the record establishing you and your

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spouse filed a tax return for the 2015 tax year. If NYSOH is unable to verify the income information listed in the December 2, 2016 application, NYSOH is directed to issue an updated notice requesting income information.

Decision

The December 3, 2016 eligibility determination notice and subsequent eligibility determination notices finding you and your spouse ineligible to receive a tax credit because you and your spouse failed to file a 2015 tax return are **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine the eligibility of you and your spouse, as of December 2, 2016, based on the record establishing you and your spouse filed a tax return for the 2015 tax year. If NYSOH is unable to verify the income information listed in the December 2, 2016 application, NYSOH is directed to issue an updated notice requesting income information.

Effective Date of this Decision: June 22, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to redetermine the eligibility of you and your spouse, as of December 2, 2016, based on the record establishing you and your spouse filed a tax return for the 2015 tax years.

NYSOH will issue an updated notice requesting income information if it is unable to confirm the income information in the final application filed on December 2, 2016.

You will receive an updated eligibility determination notice.

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.

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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

Summary

The December 3, 2016 eligibility determination notice and subsequent eligibility determination notices finding you and your spouse ineligible to receive a tax credit because you and your spouse failed to file a 2015 tax return are **RESCINDED**.

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Your case is RETURNED to NYSOH to redetermine the eligibility of you and your spouse, as of December 2, 2016, based on the record establishing you and your spouse filed a tax return for the 2015 tax year. If NYSOH is unable to verify the income information listed in the December 2, 2016 application, NYSOH is directed to issue an updated notice requesting income information.

Your case is being sent back to NYSOH to redetermine the eligibility of you and your spouse, as of December 2, 2016, based on the record establishing you and your spouse filed a tax return for the 2015 tax years.

NYSOH will issue an updated notice requesting income information if it is unable to confirm the income information in the final application filed on December 2, 2016.

You will receive an updated eligibility determination notice.

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 मदद चाहन्छ 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 b etumi ama wo obi a okyer e 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.

אײדיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אײך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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