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

Notice of Decision

Decision Date: June 07, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000015408

[redacted]

Dear [redacted]

On April 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: June 07, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000015408

[redacted]

Issue

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

> Did New York State of Health (NYSOH) properly determine that you were eligible to purchase a qualified health plan at full cost through NYSOH and ineligible for advanced payments of the premium tax credit (APTC) or cost-sharing reductions, effective January 1, 2017?

Procedural History

On December 10, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to $141.00 in advance payments of the premium tax credit (APTC) effective January 1, 2016.

Also on December 10, 2015, NYSOH issued an enrollment notice confirming your enrollment in a silver-level qualified health plan (QHP) with a monthly premium of $328.36 after your monthly APTC of $141.00 was applied, effective January 1, 2016.

On December 14, 2016, you submitted an updated application for financial assistance.

On December 15, 2016, NYSOH issued eligibility determination notice stating that you were eligible to purchase a QHP at full cost, effective January 1, 2017. That notice also stated that you were not eligible for APTC and CSR 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.

Also on December 15, 2016, NYSOH issued an enrollment notice confirming your enrollment in a bronze-level QHP with a monthly premium of $373.09 per month, effective January 1, 2017.

On February 1, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as you were found not eligible for financial assistance in 2017.

On April 27, 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 May 26, 2017, to allow you to submit supporting documents.

On May 16, 2017, you submitted your IRS Transcript, which was made part of the record as "Appellant's Exhibit A." The record was closed that day.

Findings of Fact

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

1) You testified, and your NYSOH application reflects, that you are applying for health insurance for yourself.

2) You testified, and your NYSOH application reflects, that you expect to file a 2017 federal income tax return with the tax status of married filing jointly.

3) In your NYSOH application you attested to an expected annual yearly income of $42,500.00.

4) On December 15, 2016, NYSOH issued a notice stating that you were not eligible for financial assistance because APTC had been paid to your health insurance company to reduce your premium costs in a prior year and NYSOH is unable to tell if a federal tax return was filed for that year.

5) You testified that you had requested a filing extension for your 2015 federal income tax return, and the return was timely filed later that year during October.

6) Your NYSOH account reflects that you received APTC toward the cost of your QHP in 2015.

7) On May 16, 2017, you submitted a tax return transcript issued by IRS for your 2015 tax return. The transcript indicates that the IRS received your 2015 federal income tax return on October 19, 2016.

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)).

NYSOH may not authorize APTC when it was paid on behalf of the tax filer or it's spouse, for a year which the tax data would be utilized for verification of household income and size, and that tax filer and his spouse did not file a tax return for that 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 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 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 that you were eligible to purchase a qualified health plan at full cost through NYSOH and not eligible for APTC or cost-sharing reductions, effective January 1, 2017.

On December 14, 2016, NYSOH received your updated application for health insurance. Based on that application, NYSOH determined that you were not eligible for financial assistance because based on federal and state data sources it appeared that you had not filed a prior year's tax return.

If NYSOH is unable to obtain information that a prior year's tax return has been filed, NYSOH may not determine a tax filer eligible for APTC, if APTC was paid on that tax filer's behalf in a previous year.

However, on May 16, 2017, you submitted a tax return transcript issued by IRS for your 2015 tax return. The transcript indicates that the IRS received your 2015 federal income tax return on October 19, 2016.

Therefore, at the time of the December 14, 2016 application you had in fact filed your 2015 tax return and the data sources that NYSOH had relied on to make its determination were incorrect.

Since the December 15, 2016 eligibility determination notice is not supported by the record, it must be RESCINDED.

Since the December 15, 2016 eligibility determination notice is no longer supported by the record as developed during and after the hearing, your case is RETURNED to NYSOH to rerun your application to ascertain your eligibility for financial assistance with health insurance as of December 14, 2016 for a two-person household with an expected annual income of $42,500.00, for an individual living in Montgomery County. NYSOH is directed to refer to Document [redacted] for verification that you filed your 2015 income tax return.

Decision

The December 15, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to rerun your application to ascertain your eligibility for financial assistance with health insurance as of December 14, 2016 for a two-person household with an expected annual income of $42,500.00, for an individual living in Montgomery County. NYSOH is directed to refer to Document [redacted] for verification that you filed your 2015 income tax return.

Effective Date of this Decision: June 07, 2017

How this Decision Affects Your Eligibility

You will receive a new eligibility determination notice reflecting your eligibility for financial assistance as of December 14, 2016.

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 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 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 15, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to rerun your application to ascertain your eligibility for financial assistance with health insurance as of December 14, 2016 for a two-person household with an expected annual income of $42,500.00, for an individual living in Montgomery County. NYSOH is directed to refer to Document [redacted] verification that you filed your 2015 income tax return.

You will receive a new eligibility determination notice reflecting your eligibility for financial assistance as of December 14, 2016.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[redacted]

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).

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。我们可以为您免费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 1-855-355-5777번으로 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 مجانًا.

□□□□□ (Bengali)

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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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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