



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

Notice of Decision

Decision Date: June 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016060

[REDACTED]

Dear [REDACTED],

On June 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 21, 2017 eligibility determination.

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).

This page intentionally left blank.

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

Decision

Decision Date: June 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016060

[REDACTED]

Issue

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

Did NY State of Health properly determine that you were ineligible to receive advance payments of the premium tax credit, effective March 1, 2017?

Procedural History

On December 16, 2016, you submitted an application for financial assistance.

On December 17, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you were eligible to receive up to \$95.00 per month in advance payments of the premium tax credit (APTC) for a limited time, effective January 1, 2017. That notice also directed you to submit income documentation by March 16, 2017.

On January 11, 2017, income documentation was uploaded to your NYSOH account.

On January 20, 2017, NYSOH recalculated your annual expected income and submitted an updated application on your behalf.

On January 21, 2017, NYSOH issued a notice of eligibility determination stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective March 1, 2017. This was because your household income was over the income limit for APTC.

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).

On February 21, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were found ineligible for APTC.

On February 25, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for APTC for a limited time as you had been granted Aid to Continue until a decision was made on your appeal, effective February 1, 2017.

On June 5, 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 for fourteen days to allow you time to submit your 2016 tax return. On June 5, 2017, you uploaded your 2016 tax return to your NYSOH account. This has been marked as document [REDACTED] and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) You testified that your income consists of income you earn from [REDACTED], an [REDACTED] and dividends. You explained that because of the nature of your work, your income is variable.
- 4) The application that was submitted on December 16, 2016 listed annual household income of \$44,744.00. You testified that this was based on your 2015 tax return.
- 5) On January 11, 2017 a copy of your 2015 Federal tax return was uploaded to your NYSOH account. This tax return indicates that you had wages of \$14,535.00; taxable interest of \$1,051.00; tax-exempt interest of \$1,535.00; ordinary dividends of \$14,295.00; qualified dividends of \$3,048.00; business income of \$36,145.00; capital losses of \$3,000.00; a Health Savings Account deduction of \$4,350.00; self-employment tax deduction of \$2,554.00; self-employment health insurance deduction of \$4,848.00; and IRA deduction of \$6,500.00; resulting in an adjusted gross income of \$44,774.00.
- 6) On January 20, 2017, NYSOH reviewed the 2015 Federal tax return you submitted and recalculated your annual income to be \$100,818.00.

- 7) On June 5, 2017 a copy of your 2016 Federal tax return was uploaded to your NYSOH account. This tax return indicates that you had wages of \$17,765.00; tax-exempt interest of \$2,766.00; ordinary dividends of \$12,238; qualified dividends of \$2,785.00; business income of \$17,169.00; capital loss of \$934.00; a Health Savings Account deduction of \$4,350.00; self-employment tax deduction of \$1,213.00; self-employment insurance deduction of \$5,322.00; and IRA deduction of \$6,500.00; resulting in an adjusted gross income of \$28,853.00.
- 8) You testified that your current annual expected income is currently \$28,853.00; which is based on your 2016 adjusted gross income.
- 9) You testified that you expect your income for 2017 to be similar to your income in 2016.
- 10) You testified that you expect to claim deductions on your 2017 tax return related to your business, a health savings account, and an IRA deduction.
- 11) Your application states, and you confirmed, that you live in Queens County.

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

Applicable Law and Regulations

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)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

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 application, that was the 2016 FPL, which is \$11,880.00 for a one-person household (81 Federal Register 4036).

For annual household income in the range of at least 200% but less than 250% of the 2016 FPL, the expected contribution is between 6.43% and 8.21% of the household income; for annual household income in the range of at least 250% but less than 300% of the 2016 FPL, the expected contribution is between 8.21% and 9.69% of the household income; for annual household income in the range of at least 300% up to 400% of the 2016 FPL, the expected contribution is 9.69% of the household income. (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2016-24).

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)).

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

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).

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)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as certain trade and business deductions allowed by 26 USC Subtitle A, Chapter B other than part VII, retirement savings pursuant to 26 USC §219, expenses reimbursed by an employer, losses from sale or exchange of property, and health savings accounts pursuant to 26 USC §223 (26 USC § 62(a)).

The allowable trade and business deductions includes health insurance costs of self-employed individuals (26 USC §162(l)) and one-half of self-employment taxes (26 USC §164(f)).

Legal Analysis

The issue is whether NYSOH that you were ineligible to receive APTC, effective March 1, 2017.

You expect to file your 2017 tax return as single and will claim no dependents on that tax return, therefore, you are in a one-person household. You reside in Queens County.

The application that was submitted on December 17, 2016 listed an annual household income of \$44,744.00. Based on this application, you were found eligible for up to \$95.00 per month in APTC, effective January 1, 2017, for a limited time. Income documentation was requested by March 16, 2017 in order to confirm your eligibility.

On January 11, 2017, your 2015 tax return was uploaded to your NYSOH account. This tax return indicates that you had wages of \$14,535.00; taxable interest of \$1,051.00; tax-exempt interest of \$1,535.00; ordinary dividends of \$14,295.00; qualified dividends of \$3,048.00; business income of \$36,145.00; capital losses of \$3,000.00; a Health Savings Account deduction of \$4,350.00; self-employment tax deduction of \$2,554.00; self-employment insurance deduction of \$4,848.00; and IRA deduction of \$6,500.00; resulting in an adjusted gross income of \$44,774.00.

On January 20, 2017, NYSOH recalculated your annual income to be \$100,818.00 based on the 2015 tax return you submitted. That day, NYSOH submitted an application on your behalf listing annual income of \$100,818.00.

As a result of that application, on January 21, 2017, NYSOH issued an eligibility determination stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH.

It is entirely unclear how NYSOH arrived at an annual expected income of \$100,818.00 based on the income documentation you submitted.

The 2015 tax return you submitted on January 11, 2017 lists wages of \$14,535.00, taxable interest of \$1,051.00, ordinary dividends of \$14,295.00, business income of \$36,145.00, and capital losses of \$3,000.00. This results in gross federal taxable income of \$63,026.00.

Your 2015 tax return lists deductions of \$4,350.00 for Health Savings deduction, \$2,554.00 for the deductible part of self-employment tax, \$4,848.00 for a self-employed health insurance deduction, and \$6,500.00 for an IRA deduction. Internal Revenue Service rules permit each of these deductions to be deducted from gross federal taxable income in order to determine adjusted gross income, yielding an adjusted gross income of \$44,774.00.

However, in order to determine your modified adjusted gross income, your adjusted gross income must be increased by the amount of tax-exempt interest and qualified dividends, which is listed on your 2015 tax return as \$4,582.00. Therefore, for purposes of determining your eligibility for financial assistance with health insurance, your modified adjusted gross income was \$49,357.00.

As the January 21, 2017 eligibility determination is based on a miscalculation of your modified adjusted gross income, the January 21, 2017 eligibility determination notice is RESCINDED.

During the hearing, you testified that your current annual expected income is \$28,853.00, which is based on your 2016 adjusted gross income. You provided a copy of your 2016 tax return which shows that your gross federal taxable income was \$46,238.00; that you claimed a Health Savings Account deduction of \$4,350.00; self-employment tax deduction of \$1,213.00; self-employment health insurance deduction of \$5,322.00; and IRA deduction of \$6,500.00; resulting in an adjusted gross income of \$28,853.00. That tax return also lists tax-exempt interest of \$2,766.00 and qualified dividends of \$2,785.00. Therefore, your modified adjusted gross income is \$34,404.00.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance as of January 21, 2017, based on a one-person household, residing in Queens County, with an annual income of \$49,357.00; and to recalculate your eligibility for financial assistance as of the date of this decision based on a one-person household, residing in Queens County, with an annual income of \$34,404.00.

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).

Decision

The January 21, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance as of January 21, 2017, based on a one-person household, residing in Queens County, with an annual income of \$49,357.00; and to recalculate your eligibility for financial assistance as of the date of this decision based on a one-person household, residing in Queens County, with an annual income of \$34,404.00.

Effective Date of this Decision: June 28, 2017

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility.

NYSOH incorrectly determined your annual household income.

Your case is being sent back to NYSOH to redetermine your eligibility as of the January 21, 2017 eligibility determination notice based on the information that was available at the time of this determination.

Your case is also being sent back to NYSOH to redetermine your eligibility as of the date of this decision based on the additional income information you provided at your hearing.

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

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).

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 January 21, 2017 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to recalculate your eligibility for financial assistance as of January 21, 2017, based on a one-person household, residing in Queens County, with an annual income of \$49,357.00; and to recalculate your eligibility for financial assistance as of the date of this decision based on a one-

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).

person household, residing in Queens County, with an annual income of \$34,404.00.

This is not a final determination of your eligibility.

NYSOH incorrectly determined your annual household income.

Your case is being sent back to NYSOH to redetermine your eligibility as of the January 21, 2017 eligibility determination notice based on the information that was available at the time of this determination.

Your case is also being sent back to NYSOH to redetermine your eligibility as of the date of this decision based on the additional income information you provided at your hearing.

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 1-855-355-5777 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)

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).

0000 00 00000000000000 0000 000 000000 000000 000 0000000000 0000000000 00 000000,
00000000 0000 1-855-355-5777 00000000 00 000000 000000 00 00000000 0000 000000000000 000000
00000000 000000 00000000 000000 000000

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.

שׂוֹדֵשׁ (Yiddish)

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).

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.

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).