



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

Notice of Decision

Decision Date: July 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016117

[REDACTED]

Dear [REDACTED]

On May 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2016, January 28, 2017, and February 23, 2017 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
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Decision

Decision Date: July 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016117



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 and your spouse were not eligible to receive advanced payments of premium tax credit as of December 14, 2016, January 27, 2017, and February 22, 2017, because you had not filed your 2015 tax return?

Procedural History

On December 6, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$513.00 in advance payments of the premium tax credit (APTC) and cost-sharing reductions (CSR), effective January 1, 2016.

Also on December 6, 2015, NYSOH issued an enrollment notice confirming the enrollment of you and your spouse in a platinum-level qualified health plan (QHP) with a monthly premium of \$762.34 after your monthly APTC of \$513.00 was applied, effective January 1, 2016.

On October 17, 2016, NYSOH issued a notice that it was time to renew your household's health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not determine whether you and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2016 or you and your spouse might lose the financial assistance currently being received.

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On December 14, 2016, NYSOH received a revised application for health insurance.

On December 15, 2016, NYSOH issued eligibility redetermination notice stating that you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017. That notice also stated that you and your spouse were not eligible for APTC and CSR because of one of three possible reasons: You said you would not be filing a tax return, you are married and you said you would not be filing your tax return jointly with your spouse, or APTC had been paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to confirm that a federal tax return was filed for that year.

Also on December 15, 2016, NYSOH issued an enrollment notice confirming the enrollment of you and your spouse in a platinum-level QHP with a monthly premium of \$1,280.09 per month, effective January 1, 2017.

On January 25, 2017, NYSOH received a Form 8962 (Premium Tax Credit) for 2015.

On January 27, 2017, NYSOH received a revised application for health insurance.

On January 28, 2017, NYSOH issued eligibility redetermination notice stating that you and your spouse were eligible to purchase a QHP at full cost, effective March 1, 2017. That notice also stated that you and your spouse were not eligible for APTC and CSR because of one of three possible reasons: You said you would not be filing a tax return, you are married and you said you would not be filing your tax return jointly with your spouse, or APTC had been paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to confirm that a federal tax return was filed for that year.

On February 22, 2017, NYSOH received a revised application for health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination stating that you and your spouse were not eligible for financial assistance.

Also on February 22, 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 February 23, 2017, NYSOH issued eligibility redetermination notice stating that you and your spouse were eligible to purchase a QHP at full cost, effective April 1, 2017. That notice also stated that you and your spouse were not eligible for APTC and CSR.

On May 31, 2017, NYSOH received a signed copy of your 2015 Tax Return, dated as of January 24, 2017.

Also on May 31, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was left open until June 30, 2017, to allow you to submit your 2015 Tax Return Transcript from the Internal Revenue Service (IRS).

On June 15, 2017, you submitted proof of filing your tax return for 2015 in the form of an Account Transcript from the IRS.

Accordingly, the record was closed on June 15, 2017.

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 and your spouse.
- 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 and expect to claim your child as your sole dependent on that tax return.
- 3) In your NYSOH application submitted on December 14, 2016, you attested to an expected annual yearly household income of \$45,000.00. In the NYSOH applications submitted on January 27, 2017 and February 22, 2017, you attested to an expected annual yearly household income of \$42,040.00. You testified that \$42,040.00 is a more accurate representation of your expected annual household income during 2017.
- 4) On December 15, 2016, January 28, 2017 and February 23, 2017, NYSOH issued eligibility determination notices stating that you were not eligible for financial assistance for one of three reasons.
- 5) You testified that you had requested a filing extension for your 2015 federal income tax return, and that return was filed later during January 2017.
- 6) Your NYSOH account reflects that you received APTC toward the cost of your QHP in 2015.
- 7) You uploaded a tax return transcript issued by IRS for your 2015 tax return. The transcript indicates that the IRS received your extension

request April 14, 2016, but that you ultimately filed your 2015 federal income tax return on January 24, 2017.

- 8) You testified that you were seeking a reinstatement of your APTC beginning January 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)).

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 and your spouse were not eligible to receive APTC as of December 14, 2016 because you had not filed your 2015 tax return.

On December 14, 2016, NYSOH received the updated application for health insurance.

Also on December 14, 2016, NYSOH could not confirm through federal and state data sources that you had filed a tax return during a prior tax year.

Based on this information, on December 15, 2016, NYSOH issued an eligibility redetermination notice stating you were eligible to purchase a full cost qualified health plan through NYSOH, effective January 1, 2017. The reason stated was because you said you would not be filing a tax return, you said you were married but not filing jointly, or you did not file a tax return for an earlier year during which you received APTC.

Since there is nothing in your account to indicate that you did not intend to file a tax return or that you would be filing as married filing separately, it must be concluded that you were found ineligible for APTC because NYSOH could not confirm that you had filed a tax return for a year during which you received APTC.

Pursuant to the above cited regulations, 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.

You testified, and your account confirms, you and your spouse received APTC in 2015. You testified that you filed an extension in which to file your 2015 tax return. Documentation submitted corroborates this testimony; however, while you were then permitted to file your 2015 tax return by October 15, 2016, the IRS tax transcript reflects that missed that deadline, and did not file your 2015 tax return until January 24, 2017. Accordingly, the evidence establishes you filed your 2015 tax return late.

Since the NYSOH correctly determined that the IRS had not received your 2015 tax return by the time your December 14, 2016 application had been submitted, NYSOH correctly concluded that you and your spouse were not eligible for APTC at that time.

Therefore, the December 15, 2016 eligibility determination notice stating that you and your spouse were not eligible for APTC is AFFIRMED.

However, the record further reflects that by the time you had submitted your updated applications on January 27, 2017 and February 22, 2017, you had indeed submitted your 2015 tax return to the IRS.

Accordingly, the January 28, 2017 and February 23, 2017 eligibility determination notices are no longer supported by the now developed record and must be RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance of January 27, 2017, based on a three-person household in [REDACTED], with an annual household income of \$42,040.00.

Decision

The December 15, 2016 eligibility determination notice is AFFIRMED.

The January 28, 2017 and February 23, 2017 eligibility determination notices are RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance of January 27, 2017, based on a three-person household in [REDACTED], with an annual household income of \$42,040.00.

Effective Date of this Decision: July 5, 2017

How this Decision Affects Your Eligibility

You will receive a new eligibility determination notice reflecting your eligibility for financial assistance as of January 27, 2017.

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

Summary

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).

The December 15, 2016 eligibility determination notice is AFFIRMED.

The January 28, 2017 and February 23, 2017 eligibility determination notices are RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance of January 27, 2017, based on a three-person household in [REDACTED], with an annual household income of \$42,040.00.

You will receive a new eligibility determination notice reflecting your eligibility for financial assistance as of January 27, 2017.

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)

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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 okyerε 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 אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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