



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

Notice of Decision

Decision Date: October 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017874

[REDACTED]

Dear [REDACTED],

On September 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 1, 2017 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: October 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017874

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine that you were eligible to purchase a qualified health plan at full cost, effective May 1, 2017?

Procedural History

On December 13, 2016, you submitted an application for financial assistance.

On December 14, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$241.00 in APTC for a limited time, effective January 1, 2017. The notice directed you to produce income documentation by March 13, 2017.

Also on December 14, 2016, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in a qualified health plan, effective January 1, 2017.

On January 30, 2017, you submitted income documentation.

On February 9, 2017, NYSOH issued a notice stating that your documentation was insufficient, and directed you to submit additional proof of income.

On March 8, 2017, you submitted additional income documentation.

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On March 19, 2017, NYSOH issued a notice stating that your documentation was insufficient, and directed you to submit additional proof of income.

On March 26, 2017, you submitted additional income documentation.

On March 31, 2017, you submitted additional income documentation.

Also on March 31, 2017, NYSOH validated your income documentation and an application was run on your behalf.

On April 1, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible to purchase a qualified health plan at full cost, effective May 1, 2017.

On April 8, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as you were no longer eligible for APTC.

On September 15, 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 up to September 29, 2017, to allow you to submit supporting documents.

On September 15, 2017, you submitted supporting documentation, which was included in the record as appellant's "Exhibit #1." The record was closed that day.

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 married filing jointly, as you were recently married. You will claim no dependents on that tax return.
- 2) You were not married at the time of the March 31, 2017 application. The application reflects that you planned to file your 2017 taxes with a tax filing status of single.
- 3) You are seeking insurance for yourself.
- 4) The application that was submitted on March 31, 2017 listed annual household income of \$70,693.00, consisting of income you earn from your employment. You testified that this amount was incorrect.

- 5) You testified that you expect to earn in 2017 the same amount as in 2016, or about \$40,000.00. You testified that you are a [REDACTED] and the record reflects that you work as an [REDACTED]. You testified that you also drive for [REDACTED] and [REDACTED], and that your income from those sources are reflected on your 1040.
- 6) You submitted your 2016 1040, which reflects an adjusted gross income of \$37,414.00. The form states that you earned \$210.00 in taxable interest, \$22,312.00 of business income, and \$22,969.00 in rental real estate, royalties, partnerships, S corporations, trusts, etc. You had deductions in the amount of \$8,077.00.
- 7) You testified that your new spouse does not work as she is [REDACTED].
- 8) Your application states that you live in [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 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)).

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 individual's 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)).

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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)).

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)).

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 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 expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)).

Legal Analysis

The issue is whether NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost, effective May 1, 2017.

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You are currently in a two-person household. You expect to file your 2017 income taxes as married filing jointly and will claim no dependents on that tax return. However, at the time of your application on March 31, 2017, you were not yet married. Your application stated that you planned to file your taxes with a tax filing status of single.

On March 31, 2017, NYSOH validated your 2016 tax return as satisfactory documentation of your income and an application for financial assistance was run on your behalf by an NYSOH representative. The NYSOH representative entered into your application an earned income of \$30,600.00, then added taxable interest of \$152.00, business income of \$16,101.00, additional income of \$28,414.00, and subtracted deductions of \$4,574.00. This resulted in an annual household income of \$70,693.00.

However, NYSOH bases its eligibility determinations on modified adjusted gross income, which is adjusted gross income increased by any income that was excluded for United States citizens or residents living abroad, tax-exempt interest received or accrued, and Social Security benefits that were excluded from gross income. Adjusted gross income means gross federal taxable income minus certain specific deductions.

Your 2016 tax return, which the NYSOH representative allegedly relied on when entering the income amounts, shows that in 2016 you had a total income of \$45,491.00 and deductions of \$8,077.00, which results in an adjusted gross income of \$37,414.00.

Therefore, the March 31, 2017 application was erroneously submitted to include your earned income, taxable income, and adjusted gross income. The application should have contained your earned income and deductions from your tax return OR your adjusted gross income from your tax return only.

Since the March 31, 2017 eligibility determination notice is not supported by the documentation you provided as well as your credible testimony during the hearing it is RESCINDED.

During the hearing, you testified that you were recently married and that you now expect to file your 2017 income taxes as married filing jointly. This information has not yet been updated in your NYSOH application. Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as of April 1, 2017 with an annual expected income of \$37,414.00 and to conduct outreach to you to assist you in updating your application with your new tax filing status and spouse's information.

Decision

The April 1, 2017 eligibility determination notice is RESCINDED.

During the hearing, you testified that you were recently married and that you now expect to file your 2017 income taxes as married filing jointly. This information has not yet been updated in your NYSOH application. Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as of April 1, 2017 with an annual expected income of \$37,414.00 and to conduct outreach to you to assist you in updating your application with your new tax filing status and spouse's information.

Effective Date of this Decision: October 17, 2017

How this Decision Affects Your Eligibility

NYSOH improperly determined you eligible for a full pay qualified health plan based on an incorrect income as of May 1, 2017.

Your case is being sent back to NYSOH to redetermine your eligibility based on your testimony and the documentation you submitted. NYSOH will notify you accordingly.

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 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 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 April 1, 2017 eligibility determination notice is RESCINDED.

NYSOH improperly determined you eligible for a full pay qualified health plan based on an incorrect income as of May 1, 2017.

During the hearing, you testified that you were recently married and that you now expect to file your 2017 income taxes as married filing jointly. This information has not yet been updated in your NYSOH application. Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as of April 1, 2017 with an annual expected income of \$37,414.00 and to conduct

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outreach to you to assist you in updating your application with your new tax filing status and spouse's information.

Legal Authority

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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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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 bεtumi 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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