



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

Notice of Decision

Decision Date: October 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019703

[REDACTED]

Dear [REDACTED],

On September 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 18, 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.

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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: October 04, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000019703

[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 receive up to \$253.00 per month in advance payments of the premium tax credit (APTC), eligible for cost-sharing reductions (CSR), and not eligible for the Essential Plan, effective July 1, 2017?

Procedural History

You created an account with NYSOH, number [REDACTED], in December 2013.

In a notice issued on December 15, 2013, you were found eligible to receive up to \$182.00 per month in APTC.

After updating your application multiple times in December 2013 and January 2014, using different expected annual incomes, including both earned income and unemployment benefits, you settled on annual expected earnings of \$26,066.00 per year, composed of \$24,766.00 in earned income and \$1,300.00 in unemployment benefits. In explaining the changes in income, you indicated that you were working more hours, and so would not be claiming unemployment benefits as often. You enrolled in a health plan, effective February 1, 2014.

You were later found eligible for Medicaid, effective January 1, 2015.

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In a renewal notice dated October 22, 2015, NYSOH advised you that it did not have enough information to determine your eligibility for assistance through NYSOH, and requested you to update your account. You did not reply, and your coverage in your first account ended December 31, 2015.

On February 4, 2016, you created a second account, number [REDACTED]. In that account, on February 5, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan, effective March 1, 2016, with a premium of \$20.00 per month. A notice was also issued confirming your enrollment in a plan, effective March 1, 2016.

On January 5, 2017, NYSOH issued a renewal notice in account [REDACTED], stating that NYSOH was unable to determine your eligibility, and advising you to update your account between January 16, 2017 and February 15, 2017 to complete your renewal.

On February 12, 2017, NYSOH issued a notice in account [REDACTED] advising you that your enrollment in the Essential plan would end effective February 28, 2017 in this account, because you were no longer eligible to enroll in health insurance through NYSOH. Account [REDACTED] was deactivated on June 23, 2017, without further significant activity.

However, in account [REDACTED], on February 12, 2017, NYSOH found you eligible to enroll in the Essential Plan for a limited time, effective March 1, 2017, based on your claimed expected annual income of \$22,500.00. You were directed to provide proof of income by May 12, 2017, or you might lose your insurance or the financial assistance you were receiving. You were then enrolled in the Essential Plan, also effective March 1, 2017.

No income documentation was submitted by the deadline, or to date.

Therefore, on May 17, 2017, NYSOH redetermined your eligibility in account [REDACTED]

On May 18, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$253.00 per month in APTC and, if you enrolled in a silver level qualified health plan, eligible to receive cost-sharing reductions, both effective July 1, 2017. That notice also stated that you were not eligible for the Essential Plan because your income was over the allowable income limit for that program.

On June 12, 2017, you spoke to NYSOH's Account Review Unit and appealed the APTC determination insofar as you were seeking to be redetermined eligible for the Essential Plan.

On September 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed after the Hearing Officer received additional documentation you submitted.

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) When you submitted an application in account [REDACTED] on February 11, 2017, you claimed an annual expected household income of \$22,500.00, which was listed in an application submitted on February 11, 2017. This reflected annual earnings of \$26,000.00, less \$3,500.00 in deductions. You testified that this amount was correct.
- 4) Your application states that you will be taking deductions on your 2016 tax return including \$2,000.00 in IRA contributions and \$1,500.00 for other deductions.
- 5) You testified that your monthly income in May 2017 was the same as your current monthly income.
- 6) However, the income from your February 11, 2017 application was inconsistent with information received by NYSOH from state and federal data sources, and you were directed to submit proof of income.
- 7) Because you did not submit proof of income as previously directed, on May 17, 2017, NYSOH relied on information from state and federal data sources to determine your eligibility.
- 8) Your application states that you live in Kings County.
- 9) You testified that you are appealing the determination granting you an APTC insofar as you are seeking to be determined eligible for the Essential Plan.
- 10) You submitted additional documentation, including an article you wrote for [REDACTED] (document number [REDACTED] and [REDACTED]), in which you stated, "I discovered that you can change the income on which the premiums are determined." You realized you

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could “lower your premium by lowering your financial expectations for the new year.” You also submitted a document from New York State Department of Labor, dated September 6, 2017, stating that the \$215.00 per week in unemployment insurance benefits you would otherwise have received was being applied against your outstanding debt to that agency.

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).

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)).

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable FPL or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

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)). Living

expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Legal Analysis

The issue is whether NYSOH properly determined that you were eligible to receive up to \$253.00 per month in APTC, eligible for CSR, and ineligible for the Essential Plan, effective July 1, 2017.

NYSOH is required to utilize information received from federal and state data sources when determining eligibility for health insurance programs. A review of NYSOH records reflects that federal and state data sources were used resulting in the May 18, 2017 eligibility determination. It is noted that NYSOH previously requested that you provide proof of your income, but you failed to do so.

Although you testified to annual income of \$22,500.00, you have not produced any documentary evidence to support that lower level of income, and your testimony is not supported by information received from state and federal data sources. In light of the document you submitted to NYSOH, in which you implied that at one time, you changed your estimated annual income with NYSOH to receive more financial assistance, the Appeals Unit finds that there is insufficient evidence to warrant modifying NYSOH's May 18, 2017 notice of eligibility determination.

Decision

The May 18, 2017 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: October 04, 2017

How this Decision Affects Your Eligibility

You remain eligible for up to \$253.00 in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for the Essential Plan.

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 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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The May 18, 2017 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$253.00 in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for the Essential Plan.

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 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&btumi 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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