



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

Notice of Decision

Decision Date: October 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019878

[REDACTED]

Dear [REDACTED],

On September 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 6, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: October 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019878

[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 your household was newly eligible to purchase a qualified health plan at full cost, effective July 1, 2017?

Procedural History

On February 17, 2017, you submitted an application for financial assistance for yourself, your spouse, and your daughter.

On February 18, 2017, NYSOH issued a notice of eligibility stating your household was eligible to receive advance payments of the premium tax credit (APTC) up to \$699.00 per month for a limited time, effective April 1, 2017. The notice requested you to provide proof of your income by May 18, 2017. The notice stated the income in your application was listed as \$58,780.00.

On February 19, 2017, an enrollment confirmation notice was issued stating you and your household's enrollment in a Silver level qualified health plan for a cost of \$512.51 per month after the application of \$619.00 in APTC was applied, effective April 1, 2017.

On May 12, 2017, NYSOH issued a notice stating the documentation it reviewed did not confirm the information in your application. The notice requested you to provide proof of your household income by June 2, 2017.

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On June 2, 2017, you provided a copy of your income documentation.

On June 5, 2017, a NYSOH representative submitted an application on your household's behalf based on the income documentation you submitted.

On June 6, 2017, NYSOH issued a notice of eligibility stating that your household was newly eligible to purchase a qualified health plan at full cost, effective July 1, 2017. The notice stated the income in your application was listed as \$106,189.00.

On June 6, 2017, NYSOH issued an enrollment confirmation notice confirming your household's enrollment in a Silver level qualified health plan with a premium responsibility of \$1,131.51 per month.

On June 20, 2017, you spoke to NYSOH's Account Review Unit and appealed the June 6, 2017 eligibility determination notice insofar as it found your household newly eligible to purchase a qualified health plan at full cost.

On June 24, 2017, NYSOH issued a notice of eligibility determination stating your household was found eligible for APTC for a limited time. The notice stated you had been granted Aid to Continue through the length of your appeal, effective July 1, 2017.

On June 24, 2017, NYSOH issued an enrollment notice confirming your and your household's enrollment in a Silver level qualified health plan with APTC up to \$619.00 per month.

On September 14, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

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 [REDACTED]. You will claim one dependent on that tax return.
- 2) You are seeking insurance for yourself, your wife and your daughter.
- 3) You are seeking to be found eligible for APTC as of July 1, 2017
- 4) The application that was submitted on February 17, 2017 listed an annual household income of \$58,780.00 consisting of \$22,800.00 you earn from your business, \$37,440.00 your wife earns from her employer and

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\$1,776.00 she earns from a second employer. You also would claim \$30.00 in taxable interest.

- 5) The application submitted on February 17, 2017 stated you would have a deduction in the amount of \$250.00 for educator expenses, \$376.00 for self-employment tax and \$2,640.00 for business losses.
- 6) You provided income documentation in the form of a 2016 tax return showing a line 16a pensions and annuities "Rollover" of \$57,174.00. The amount was not attributed to your overall line 37 adjusted gross income.
- 7) The application that was submitted on June 5, 2017 by a NYSOH representative listed an annual household income of \$106,189.00 consisting of \$22,800.00 you earn from your business, \$37,440.00 your wife earns from her employer and \$1,776.00 she earns from a second employer. This application further added \$57,174.00 from "Pensions & Annuities."
- 8) The June 5, 2017 application stated you would have deductions in the amount of \$250.00 and \$10,000.00 and a business loss of \$2,640.00 and \$111.00 of self-employment tax.
- 9) You testified that in 2016 due to the [REDACTED] you had a one-time income of money from the sale of [REDACTED] house in the form of a capital gain of \$28,470.000, and rolled over some of her accounts for a one-time amount of \$57,174.00.
- 10) You testified you and your wife have no pensions or annuities for 2017. You testified this income was only received for the year of 2016 and you did not anticipate any further income in this amount for 2017.
- 11) 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

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

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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 \$20,160.00 for a three-person household (81 Federal Register 4036).

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.

Business Expenses Deduction

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“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a trade or business may be deductions from a taxpayer’s adjusted gross income (26 USC § 62 (a)(1)).

Legal Analysis

The first issue is whether NYSOH properly determined that household was newly eligible to purchase a qualified health plan at full cost, July 1, 2017.

You initially submitted an application for financial assistance with your, your wife and your daughter’s health insurance on February 17, 2017. The application submitted listed an annual household income for a three-person household for 2017 of \$58,780.00. The determination issued on February 18, 2017 stated that your household was eligible to receive up to \$699.00 per month in APTC for a limited time, effective April 1, 2017. The notice requested you to provide proof of your income by May 18, 2017.

After submitting proof of your household income through a copy of your 2016 tax return on June 2, 2017, a NYSOH representative reviewed the information and submitted an application on your household’s behalf on June 5, 2017.

The application that was submitted on June 5, 2017 listed an annual household income of \$106,189.00 and the eligibility determination relied upon that information.

You are in a three-person household. You expect to file your 2017 income taxes as married filing jointly and will claim one dependent on that tax return.

An annual income of \$106,189.00 is 526.73% of the 2016 FPL for a three-person household. At 526.73% of the FPL, your household was determined eligible to purchase a qualified health plan at full cost and ineligible for APTC as of July 1, 2017.

However, the NYSOH representative on listed income amounts which included \$22,800.00 you earn from your business, \$37,440.00 your wife earns from her employer and \$1,776.00 she earns from a second employer. This application further added \$57,174.00 from “Pensions & Annuities.” The application then made deductions in the amount of \$250.00 and \$10,000.00 and a business loss of \$2,640.00 and \$111.00 of self-employment tax. This resulted in an annual household income of \$106,189.00.

NYSOH bases its eligibility determinations on Modified Adjusted Gross Income, which is income increased by any income that was excluded for United States

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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 \$57,174.00 in income from Pensions and IRA distributions rollover. You testified that in 2016 due to the passing of your parent you had a one-time income of money from the sale of her house in the form of a capital gain of \$28,470.000, and rolled over some of her accounts for a one-time amount of \$57,174.00.

You further testified you and your wife have no pensions or annuities for 2017. You testified this income was only received for the year of 2016 and you did not anticipate any further income in this amount for 2017. Additionally, the information entered into your 2016 tax return which had the amount of \$57,174.00 was not added to your overall adjusted gross income for line 37.

Therefore, the June 5, 2017 application was erroneously submitted to include the amount of \$57,174.00.

Since the June 6, 2017 eligibility determination notice is not supported by the documentation you provided, as well your credible testimony, at the hearing it is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your household eligibility as of July 1, 2017 based on a three-person household, residing in [REDACTED], NY with an annual household income of \$49,015.00.

Decision

The June 6, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your household eligibility as of July 1, 2017 based on a three-person household, residing in [REDACTED], NY with an annual household income of \$49,015.00.

Effective Date of this Decision: October 26, 2017

How this Decision Affects Your Eligibility

This decision is not a final determination of your household's eligibility.

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).

Your case is being sent back to NYSOH to redetermine your eligibility and to 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 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:

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).

- 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 June 6, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your household eligibility as of July 1, 2017 based on a three-person household, residing in [REDACTED], NY with an annual household income of \$49,015.00.

This decision is not a final determination of your household's eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility and to notify you accordingly.

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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