



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

Notice of Decision

Decision Date: September 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019984

[REDACTED]

[REDACTED]

On September 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 24, 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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Decision

Decision Date: September 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019984



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 ineligible for advance payments of the premium tax credit (APTC) or cost-sharing reductions (CSR), effective August 1, 2017?

Procedural History

On June 23, 2017, you submitted an application for financial assistance through NYSOH. NYSOH rendered a preliminary eligibility determination that day finding you ineligible for financial assistance.

Also on June 23, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as you were determined ineligible for financial assistance.

On June 24, 2017, NYSOH issued an eligibility determination notice stating that you were conditionally eligible to purchase a qualified health plan at full cost, effective August 1, 2017. The notice directed you to provide proof of citizenship status by September 21, 2017, to confirm your eligibility. The notice also stated that you were ineligible for APTC and CSR for one of the following reasons: (1) You do not expect to file a federal tax return; or (2) You are married and do not expect to file a joint return with your spouse; or (3) APTC was paid to your health insurance company in a prior year and NYSOH could not tell if a federal tax return was filed for that year.

On June 28, 2017, your account was updated.

On June 29, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a QHP at full cost, effective August 1, 2017.

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 at the end of the hearing.

Findings of Fact

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

- 1) According to your June 23, 2017 application (application), you are applying for health insurance for yourself.
- 2) According to your application and testimony, you are married.
- 3) According to your application and testimony, you expect to file a 2017 federal income tax return with a tax status of Head of Household (with qualifying individual).
- 4) According to your application, you did not expect to claim any dependents on your 2017 federal income tax return.
- 5) You testified that your [REDACTED] has been residing with you since February 2017 and will continue to do so until November 2017. You expect to claim your nephew as a dependent on your 2017 federal income tax return.
- 6) According to your application, your spouse will not be filing a 2017 federal income tax return.
- 7) You testified that your spouse resides in [REDACTED]; however, they will be permanently residing in the United States as of [REDACTED]
- 8) You testified that you will be applying for health insurance for your spouse when they arrive in the United States.
- 9) According to your application and testimony, you expect your 2017 annual income to be \$39,600.00.
- 10) You testified that your spouse is employed [REDACTED] and has an annual household income of \$13,200.00.

- 11) You testified that your spouse will be begin working for [REDACTED] at the end of October 2017; however, you do not know how much they will be earning.

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

Applicable Law and Regulations

Advance Payments of the Premium Tax Credit

APTC is 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 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)).

If a tax filer is married, they must file a joint return with his or her spouse to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all the following criteria:
 - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
 - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

A qualifying child is an individual who is:

- a. a son, daughter, stepson, or stepdaughter of the taxpayer; or

b. an eligible foster child of the taxpayer

(26 USC § 152(f)(1)).

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were ineligible for advance premium tax credit (APTC) and cost-sharing reductions (CSR).

In the eligibility determination notice issued on June 24, 2017, NYSOH denied you APTC because you indicated that you were married but did not expect to file a joint federal income tax return with your spouse.

To qualify for APTC, a person who is married must either file their federal income tax return jointly with their spouse or qualify as “not married” at the end of the taxable year.

The record reflects that you are still married and have not obtained a decree of divorce or of separate maintenance. You testified that you still expect to file your 2017 federal income tax return with the tax status of Head of Household (with a qualifying individual).

A tax filer may be treated as “not married” at the close of the taxable year, which makes them eligible for APTC. The tax filer must maintain their household as the primary home for a qualifying child, as defined above. Furthermore, the tax filer’s spouse may not be a member of the household during the last 6 months of the tax year.

You testified that your nephew has been residing with you since February 2017 and will continue to do so until November 2017. Further, you expect to claim your nephew as a dependent on your 2017 federal income tax return. However, your nephew does not meet the relationship-test to constitute a qualifying child.

You testified that your spouse resides in [REDACTED] however, they will be permanently residing in the United States as of [REDACTED]. Further,

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you testified that you will be applying for health insurance for your spouse when they arrive in the United States. The record is not clear whether your spouse will be residing with you when they arrive in the United States as of [REDACTED]

The record does not support a finding that you meet the necessary requirements to be considered “not married.” Your tax filing status does not qualify you for APTC because you are not legally separated from your spouse under a decree of divorce or separate maintenance. Therefore, NYSOH was correct when it determined that you were ineligible for APTC due to your tax filing status.

CSR are available only to those who meet the requirements for APTC. Since you did not qualify for APTC, NYSOH correctly found that you were ineligible for CSR.

Since NYSOH correctly determined that you are ineligible for APTC or CSR, the June 24, 2017 eligibility determination notice is AFFIRMED.

Decision

The June 24, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: September 26, 2017

How this Decision Affects Your Eligibility

You remain eligible to purchase a qualified health plan at full cost through NYSOH.

You remain ineligible for APTC because you are married but not filing your 2017 federal income tax return jointly with your spouse.

You remain ineligible for CSR because you are ineligible for an APTC.

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
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- By fax: 1-855-900-5557

Summary

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The June 24, 2017 eligibility determination notice is AFFIRMED.

You remain eligible to purchase a qualified health plan at full cost through NYSOH.

You remain ineligible for APTC because you are married but not filing your 2017 federal income tax return jointly with your spouse.

You remain ineligible for CSR because you are ineligible for an APTC.

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 bɛtumi ama wo obi a okyerɛ 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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