



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

Notice of Decision

Decision Date: December 01, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022194

[REDACTED]

[REDACTED]

On November 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 30, 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
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Decision

Decision Date: December 01, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022194



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that you were eligible to receive up to \$349.00 per month in advance payments of the premium tax credit, effective October 1, 2017?

Did NY State of Health properly determine that you were eligible for cost-sharing reductions?

Procedural History

On March 31, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On April 1, 2017, NYSOH issued an eligibility determination stating that you were eligible to receive up to \$379.00 per month in advanced premium tax credit (APTC) and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, for a limited time, effective May 1, 2017. That notice also directed you to submit income documentation to confirm your eligibility by June 29, 2017.

Also on April 1, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a qualified health plan with the application of your APTC, effective April 1, 2017.

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On August 25, 2017, you submitted documentation to NYSOH by regular mail; which was uploaded to your NYSOH account on August 28, 2017.

On August 29, 2017, NYSOH validated your documentation and submitted an updated application on your behalf.

On August 30, 2017, NYSOH issued an eligibility determination stating that you were eligible to receive up to \$349.00 per month in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective October 1, 2017.

Also on August 30, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a qualified health plan with the application of your APTC, effective September 1, 2017.

On September 6, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as the amount of APTC you were eligible for decreased.

On September 12, 2017, NYSOH issued an eligibility determination stating that you were eligible for APTC of \$379.00 per month and cost-sharing reductions for a limited time, effective September 1, 2017. This notice further stated that you had been granted Aid to Continue until a decision was made on your appeal.

Also on September 12, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in your qualified health plan with \$379.00 per month in APTC applied to your monthly premium, effective September 1, 2017.

On November 13, 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 until November 28, 2017, to allow you to submit supporting documents.

On November 17, 2017, you mailed a four-page document via the United States Postal Service; which was uploaded to your account on November 22, 2017. This four-page document was made part of the record as "Appellant's Exhibit #1", and the record was closed that same 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 single. You will claim no dependents on that tax return.
- 2) You are seeking health insurance and financial assistance for yourself.

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- 3) The application that was submitted on March 31, 2017, listed an annual household income of \$20,000.00, consisting of income you receive from ordinary dividends.
- 4) You submitted your 2015 federal tax return, which indicates that your adjusted gross income for 2015 was \$22,628.00, consisting of \$23.00 you received in taxable interest, and \$22,605.00 you received from ordinary dividends.
- 5) On August 29, 2017, NYSOH validated your 2015 federal tax return and updated the income in your application from \$20,000.00 to \$22,605.00. You testified that this amount is incorrect.
- 6) You testified that your only source of income is from dividends.
- 7) You testified that you do not believe capital gains should be included in your annual income because it was only a one-time payment.
- 8) You testified that one company, who you receive dividends from, is not issuing you any dividend income, but submitted a 1099-form so that you are being forced to claim it as income on your tax return.
- 9) You submitted your 2016 federal tax return which indicates that in 2016 your adjusted gross income for 2016 was \$23,010.00, consisting of \$20.00 you received from taxable interest, \$19,484.00 you received from qualified dividends, and \$3,506.00 you received in capital gains.
- 10) You testified that you are unsure as to whether your income will be the same in 2017, as it was in 2016.
- 11) Your application states, and you confirmed, that you will not be taking any deductions on your 2017 tax return.
- 12) Your application states that you live in [REDACTED].
- 13) You testified that you are unable to afford your insurance premium without a higher amount of APTC.

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).

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 \$11,880.00 for a one-person household (81 Federal Register 4036).

For annual household income in the range of at least 150% but less than 200% of the 2016 FPL, the expected contribution for 2017 is between 4.03% and 6.43% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), 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

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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)).

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 first issue under review is whether NYSOH properly determined that you were eligible for an APTC of up to \$349.00 per month.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household’s projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources to verify an individual’s income attestation.

If NYSOH cannot verify an individual’s attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

The application that was submitted on March 31, 2017 listed an annual household income of \$20,000.00. In the eligibility determination issued on April 1,

2017, you were advised that your eligibility for APTC was only for a limited time, and that you needed to confirm your annual household income by June 29, 2017.

On August 25, 2017, you submitted your 2015 federal tax return; which was uploaded to your account on August 28, 2017. On August 29, 2017, NYSOH validated your income documentation and updated the annual household income in your application from \$20,000.00 to \$22,628.00. You testified that this amount is incorrect.

You testified that the only source of income you receive is through dividends. You further testified that your income is less than what is listed on your federal tax return. You testified that a company in which you normally receive dividends from are withholding your dividend payment from you, but you still sending you a 1099- form; therefore, you must claim this amount on your tax return. You further testified that you do not have any proof from this company indicating that they are withholding dividends from you nor did you supply any documentary evidence for the record of this testimony.

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 deductions.

Therefore, NYSOH properly calculated your annual income, based your 2015 federal tax return, as \$22,628.00 and the eligibility determination relied upon this information.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2017 income taxes as single and will claim no dependents on that tax return.

You reside in [REDACTED], where the second lowest cost silver plan available for an individual through NYSOH costs \$461.49 per month.

An annual income of \$22,628.00 is 190.47% of the 2016 FPL for a one-person household. At 190.47% of the FPL, the expected contribution to the cost of the health insurance premium in 2017 is 5.98% of income, or \$112.76 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county (\$461.49 per month) minus your expected contribution (\$112.76 per month), which equals \$348.73 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$349.00 per month in APTC.

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The second issue under review is whether you were properly found eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$22,628.00 is 190.47% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

Since the August 30, 2017 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$349.00 per month in APTC and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

During the hearing, you testified that the amount that was listed in the August 29, 2017 application was incorrect and that your annual income is less. As a result, the Hearing Officer left the record open to allow you time to submit your 2016 federal tax return and any other documentation that would support your testimony. The adjusted gross income listed on your 2016 federal tax return is \$23,010.00; which is more than what was listed in your August 29, 2017 application. You testified during the hearing that you are unsure as to whether your annual income for 2016 is indicative of what you will make in 2017.

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). As a result, the amount of APTC you are entitled to will be reconciled on your 2017 federal tax return based on your actual adjusted gross income for 2017. Therefore, if you were entitled to additional APTC during 2017, you may get the rest in an income tax refund or have your tax bill reduced. If you were entitled to less APTC during 2017, you will owe the difference as additional income taxes.

Decision

The August 30, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: December 01, 2017

How this Decision Affects Your Eligibility

NYSOH properly determined that you were eligible for up to \$349.00 per month in APTC, based on the information you provided.

NYSOH properly determined that you were eligible for cost-sharing reductions.

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 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:

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- By fax: 1-855-900-5557

Summary

The August 30, 2017 eligibility determination notice is **AFFIRMED**.

NYSOH properly determined that you were eligible for up to \$349.00 per month in APTC, based on the information you provided.

NYSOH properly determined that you were eligible for cost-sharing reductions.

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&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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