STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: January 23, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000023147

[redacted]

Dear [redacted],

On December 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 3, 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
  PO 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(b).

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: January 23, 2018

NY State of Health Account ID: [redacted]
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[redacted]

Issues

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

> Did NY State of Health (NYSOH) properly determine you were eligible to receive up to $247.00 per month in advance payments of the premium tax credit (APTC), effective November 1, 2017?
>
> Did NYSOH properly determine you were eligible for cost-sharing reductions (CSR)?
>
> Did NYSOH properly determine you were not eligible for the Essential Plan?

Procedural History

On October 2, 2017, NYSOH received your updated application for financial assistance with your health insurance.

On October 3, 2017, NYSOH issued a notice of eligibility determination stating you were eligible to receive up to $247.00 in APTC and, if you enrolled in a silver-level qualified health plan (QHP), eligible to receive CSR, both effective November 1, 2017. That notice also stated you were not eligible for the Essential Plan, because your household income was over the allowable income limit for that program.

On October 5, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as you were not eligible for the Essential Plan.

On December 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 to allow you to submit supporting documents. On December 27, 2017, the requested documentation was viewable in your NYSOH account. The record closed thereafter.

Findings of Fact

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

1) You are appealing your own eligibility. This appeal does not involve your child's coverage.

2) You were enrolled in an Essential Plan in 2016 following an April 13, 2017 application listing your annual expected income as $34,862.00, your tax status as head of household, and indicating you would claim your three children as dependents on your tax return.

3) On June 7, 2017, NYSOH received three updated applications submitted on your behalf. The first two applications indicated you would claim your daughter and your youngest son as dependents and included income earned by your daughter. The final application submitted on June 7, 2017 indicated you would only claim one dependent on your tax return, your youngest son. That application listed your annual expected income for 2017 as $30,000.00.

4) You were determined conditionally eligible for the Essential Plan and directed to submit proof of your household income.

5) On October 2, 2017 you updated your application over the phone. That application listed your annual expected income for 2017 as $35,000.00 consisting solely of income earned at your employment with [redacted]

6) That application listed your tax filing status as single and indicated you would only claim your youngest son as a dependent on that tax return.

7) NYSOH determined you eligible to receive up to $247.00 in tax credits, effective November 1, 2017.

8) You did not enroll in a health plan.

9) You testified you cannot afford a qualified health plan.

10) You confirmed that you will file your 2017 tax return with a tax filing status of single.

11) You testified that you will claim three dependents on your 2017 tax return including your youngest son, your daughter, and your mother. You testified you claimed your mother as a dependent on your 2016 tax return. You testified your oldest son will not be your tax dependent in 2017. You testified you do not know why the applications filed on June 7, 2017 and October 2, 2017 indicated you would only claim one dependent.

12) You were directed to submit a copy of your 2016 tax return for proof of the tax dependents claimed on that return. No such documentation was received by the due date.

13) You testified the $35,000.00 annual income amount listed on the October 2, 2017 application was correct.

14) You testified you work full time, approximately 32 hours a week, at [redacted]" and you are paid weekly, but you did not know the amount of your weekly pre-tax pay.

15) You also testified that you worked part-time for all of 2017 at [redacted]. You testified you work five to seven hours on [redacted] at that job, earn a rate of $20.00 an hour, and are paid biweekly.

16) You were directed to submit proof of your income from both of your jobs.

17) On December 27, 2017, you uploaded to your NYSOH account a letter from your employer [redacted]" dated December 14, 2017 stating that you will have earned $35,197.00 in gross wages at that job by December 30, 2017.

18) You also uploaded a paystub for a check date of December 20, 2017 from "[redacted] showing year to date gross earnings of $10,262.91.

19) According to your account, on December 27, 2017, NYSOH recalculated your annual household income, based on the income documentation submitted, as $45,559.17.

20) NYSOH redetermined your eligibility based on the recalculated income amount and found you eligible for up to $196.00 in tax credits, effective February 1, 2018. You were no longer eligible for CSR.

21) You testified, and your applications indicate, you will not take any deductions on your 2017 tax return.

22) You testified, and your applications indicate, you live in Nassau County.

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 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 NYSOH 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), IRS Revenue Procedure (RP) 2016-24).

In an analysis of APTC eligibility, the determination is based on the applicable 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 $16,020.00 for a two-person household (81 Federal Register 4036).

For annual household income in the range of at least 200% but less than 250% of the 2016 FPL, the expected contribution is between 6.43% and 8.21% of the household income (26 CFR § 1.36B-3, IRS RP 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 federal income tax return). Those who take less tax credit in advance than they can 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 federal poverty level (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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2016 FPL, which is $16,020.00 for a two-person household (81 Federal Register 4036).

Legal Analysis

The first issue is whether NYSOH properly determined you were eligible to receive up to $247.00 per month in APTC, effective November 1, 2017.

The application that was submitted on October 2, 2017 listed an annual household income of $35,000.00 and the eligibility determination relied upon that information.

Although you testified that you will claim three dependents on your 2017 tax return including your daughter, your mother, and your youngest son, the October 2, 2017 application and your previous June 7, 2017 application both indicated you would only claim one dependent. You were directed to submit a copy of your 2016 tax return to verify the dependents claimed on that return; however, no such documentation was received by the Appeals Unit. Given the contradictory evidence regarding the dependents you will claim on your 2017 tax return, it is concluded that the best evidence of same is the attestations in your applications indicating you will only claim one dependent. Thus, this review of your eligibility is based on a household size of two.

You reside in Nassau County, where the second lowest cost silver plan available for an individual through NYSOH for 2017 costs $453.55 per month.

An annual income of $35,000.00 is 218.48% of the 2016 FPL for a two-person household. At 218.48% of the FPL, the expected contribution to the cost of the health insurance premium is 7.09% of income, or $206.79 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 ($453.55 per month) minus your expected contribution ($206.79 per month), which equals $246.76 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to $247.00 per month in APTC, based on the information in your application.

The second issue is whether you were properly found eligible for CSR.

CSR are available to a person who has a household income no greater than 250% of the applicable FPL. Since a household income of $35,000.00 is 218.48% of the applicable FPL, under the 250% limit, NYSOH correctly found you eligible for CSR, based on the information in your application.

The third issue under review is whether NYSOH properly determined you were ineligible for the Essential Plan, effective November 1, 2017.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was $16,020.00 for a two-person household. Since an annual household income of $35,000.00 is 218.48% of the 2016 FPL, over the 200% limit, NYSOH properly found you ineligible for the Essential Plan.

Since the October 3, 2017 eligibility determination properly stated that, based on the information in your application, you were eligible for up to $247.00 in APTC, eligible for CSR, and ineligible for the Essential Plan, effective November 1, 2017, it is correct and is AFFIRMED.

It is noted that at the hearing you testified that, despite the information in your October 2, 2017 application, you also worked a second part-time job in 2017. On December 27, 2017, you uploaded income documentation indicating that in 2017 you earned $35,197.00 in gross wages at your full-time job and $10,262.91 in gross wages at your part-time job. Based on this documentation, NYSOH recalculated your total household income as $45,559.17, redetermined your eligibility for 2018, and found you eligible to receive up to $196.00 in APTC, effective February 1, 2018. It is noted that this eligibility determination is not currently under review.

Decision

The October 3, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 23, 2018

How this Decision Affects Your Eligibility

You were eligible for up to $247.00 in APTC, eligible for CSR, and ineligible for the Essential Plan, effective November 1, 2017, based on the information in your October 2, 2017 application.

This decision does not affect subsequent eligibility determinations.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your appeal was decided, the 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
  PO Box 11729
  Albany, NY 12211
- By fax: 1-855-900-5557

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).

Summary

The October 3, 2017 eligibility determination notice is AFFIRMED.

You were eligible for up to $247.00 in APTC, eligible for CSR, and ineligible for the Essential Plan, effective November 1, 2017, based on the information in your October 2, 2017 application.

This decision does not affect subsequent eligibility determinations.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[redacted]

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).

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 مجانًا.

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।

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).

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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.

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).