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

Notice of Decision

Decision Date: February 5, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000024003

[redacted]

[redacted]

On December 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 4, 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 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
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: February 5, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000024003

[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 purchase a qualified health plan (QHP) at full cost, effective January 1, 2018?

Procedural History

On November 3, 2017, you applied for financial assistance with your health insurance. That day, a preliminary eligibility determination was prepared in response to that application, stating that you were eligible to purchase a QHP at full cost.

Also on November 3, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as you were found not eligible for financial assistance.

On November 4, 2017, NYSOH issued eligibility determination notice stating that you were eligible to purchase a QHP at full cost, effective January 1, 2018. That notice also stated that you were not eligible for APTC and cost sharing reductions because you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

On December 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was left open until January 8, 2018 for you to provide an IRS transcript for 2016.

On December 29, 2017, you faxed an I.R.S. transcript for 2016 to the NYSOH Appeals Unit which has been designated as Appellant's Exhibit #1. The record is now closed.

Findings of Fact

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

1) You testified, and your NYSOH application confirms, that you are applying for health insurance for yourself.

2) In your November 3, 2017 application, you attested to an expected annual income of $46,626.54.

3) On November 4, 2017, NYSOH issued a notice stating that you were not eligible for financial assistance because you said you would not be filing a tax return or were married and filing separately, or APTC had been paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to tell if a federal tax return was filed for that year.

4) You testified that you filed your 2016 federal income tax return in April 2017.

5) You testified and your NYSOH account reflects that you received an APTC towards the cost of your QHP in 2016.

6) Your 2016 Form 1095-A Health Insurance Marketplace Statement reflects that you received $2.00 in APTC during each of the months of October 2016, November 2016 and December 2016.

7) On December 29, 2017, you faxed a tax return transcript issued by the IRS for your 2016 tax return. The transcript indicates that the IRS received your 2016 federal income tax return on April 15, 2017.

8) Your 2016 tax return transcript reflects that you have not reconciled the APTC you received in 2016 with any premium tax credit you were ultimately found eligible for by the IRS.

9) You testified that you live in New York County.

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

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan 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 qualified health plan, 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)).

NYSOH may not authorize continuing APTC when APTC had been paid on behalf of the tax filer and/or spouse for a year for which the tax data would be utilized to confirm household income and size, but the tax filer and/or spouse did not file a tax return for that year (45 CFR § 155.305(f)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant, and it must implement any decreases in eligibility to receive APTC effective as of the first day of the month following the date of the notice if the change occurs on or before the 15th of the month; otherwise, the change becomes effective the first

day of the second following month (45 CFR § 155.310(f), 45 CFR § 155.330(f)(1)(i) and (f)(3)). Increases become effective the first day of the following month, regardless of when during the month the change occurs (*id.*).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible to purchase a QHP only at full cost, effective January 1, 2018.

In your November 3, 2017 application, you attested to an expected annual income of $46,626.54.

On November 4, 2017, NYSOH issued a notice stating that you were not eligible for financial assistance because you said you would not be filing a tax return or were married and filing separately, or APTC had been paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to tell if a federal tax return was filed for that year with your receipt of the credit reconciled with your final eligibility.

In your case, you stated that you were single and would be filing a tax return. Therefore, it must be concluded that NYSOH was unable to confirm that tax return had been filed for a year during which you had received APTC, reconciling your receipt of APTC in a previous year.

You testified and your NYSOH account reflects that you received an APTC towards the cost of your QHP in 2016. Your 2016 Form 1095-A Health Insurance Marketplace Statement reflects that you received $2.00 in APTC during each of the months of October, November, and December 2016.

You testified that you filed your 2016 federal income tax return in April 2017. On December 29, 2017, you uploaded a tax return transcript issued by the IRS for your 2016 tax return. The transcript indicates that the IRS received your 2016 federal income tax return on April 15, 2017.

However, your 2016 tax return transcript reflects that you declared you did not receive any APTC and that you did not reconcile the APTC you received in 2016 with your final eligibility as determined by the IRS.

Therefore, at the time of the November 3, 2017 application you had in fact filed your 2016 tax return, but you had not reconciled the APTC you received in 2016.

Since you have not reconciled the amount of APTC you received in 2016, NYSOH correctly determined that you are not eligible for APTC beginning in January 2018. As such, the November 4, 2017 eligibility determination notice is supported by the record, and it must be AFFIRMED.

Please contact a tax professional or the Internal Revenue Service for assistance in reconciling your 2016 tax return regarding the APTC you received during 2016.

Decision

The November 4, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 5, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

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 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 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
  Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 4, 2017 eligibility determination notice is AFFIRMED.

This decision does not change your eligibility.

Legal Authority

We are issuing this determination 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.

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