



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

Notice of Decision

Decision Date: January 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024599

[REDACTED]

On January 10, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 21, 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).

This page intentionally left blank.



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

Decision

Decision Date: January 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024599



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did New York State of Health (NYSOH) properly determine that you were eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, and ineligible for advanced payments of the premium tax credit (APTC) and cost-sharing reductions, effective January 1, 2018?

Procedural History

On December 5, 2015, NYSOH issued an enrollment notice confirming your enrollment in a platinum level QHP with a monthly premium of \$414.00, after your monthly APTC of \$144.00 was applied, effective January 1, 2016.

On November 22, 2016, NYSOH issued an enrollment notice confirming your enrollment in a gold level QHP with a monthly premium of \$404.00, after your monthly APTC of \$233.00 was applied, effective January 1, 2017.

On November 16, 2017, NYSOH issued a renewal notice stating that it was time to renew your application for health insurance through NYSOH. The notice stated that, based on information from state and federal data sources, NYSOH could not determine whether you were eligible for financial assistance with health insurance. The notice directed you to update your NYSOH application between November 16, 2017 and December 15, 2017, or the financial assistance you were receiving could end.

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).

On November 20, 2017, you updated your NYSOH account. That day, NYSOH prepared a preliminary eligibility determination stating that you were not eligible to receive financial assistance with your health insurance, but that you could enroll in a QHP at full cost, effective January 1, 2018.

Also on November 20, 2017, you spoke with NYSOH's Account Review Unit and appealed, insofar as you were not eligible for APTC for 2018.

On November 21 and 22, 2017, NYSOH issued eligibility determination notices stating that you were eligible to purchase a QHP at full cost, effective January 1, 2018. The notices also stated that you were not eligible for APTC and CSR because either 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.

Also, on November 21, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in your gold level QHP was ending, effective December 31, 2017, because you were no longer eligible to enroll in that plan.

On December 4, 2017, you faxed documentation to NYSOH, which was uploaded to your account on December 5, 2017.

On December 5, 2017, NYSOH redetermined your eligibility.

On December 6, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a QHP at full cost, effective January 1, 2018. The notices also stated that you were not eligible for APTC and CSR because you either 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 14, 2017, NYSOH issued an enrollment confirmation notice, confirming your enrollment in a gold level QHP with a monthly premium of \$611.61, beginning January 1, 2018.

On December 19, 2017, you faxed documentation to NYSOH, which was uploaded to your NYSOH account that same day.

On January 10, 2018, 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) You testified, and your NYSOH application reflects, that you are applying for health insurance for yourself.
- 2) You testified, and your NYSOH account reflects, that you expect to file a 2017 and 2018 federal income tax return with a tax status of single.
- 3) You testified that you are widowed, and have been since before you filed your first application through NYSOH.
- 4) In your November 20, 2017 application, you attested to an expected annual yearly income of \$31,200.00.
- 5) Your NYSOH account reflects that you received APTC toward the cost of your QHP in 2016 and 2017.
- 6) You testified that you filed your 2016 federal income tax return in February or March of 2017.
- 7) You testified that you had a tax preparer who prepared your 2016 income tax return.
- 8) You testified that in May 2017, you received a letter from the IRS stating that they had received your Form 1040, but that they needed more information within 20 days. You testified that the letter directed you not to submit an amended return, and requested that you submit a Form 8962 and your 1095A.
- 9) You testified that you faxed this documentation to the IRS on May 12, 2017, and did not receiving any further requests or correspondence from the IRS.
- 10) You testified that NYSOH instructed you to submit an IRS transcript of your 2016 federal income tax return when you updated your application over the phone with them, and you did so.
- 11) Your NYSOH account confirms that a copy of your 2016 IRS Tax Return Transcript was faxed to NYSOH on December 4, 2017, and uploaded by NYSOH to your account on December 5, 2017 (Document [REDACTED]).

- 12) You testified that, after you submitted the transcript, NYSOH further requested a copy of your Form 8962 and 1095A, and you submitted that as well.
- 13) Your NYSOH account confirms that a copy of the first page of your form 1095A, and the first page of your 2016 Form 8962 were faxed to NYSOH on December 19, 2017, and NYSOH uploaded them to your account that same day [REDACTED]
- 14) Your NYSOH account does not contain any indication that NYSOH reviewed the documentation that was submitted on December 19, 2017, and your NYSOH application has not been run since December 5, 2017.
- 15) The IRS tax transcript that you provided to NYSOH includes, on the fifth page, information from your Form 1095A and 8962 regarding the amount of APTC that you received in 2016, as well as the amount the IRS determined you to be eligible for in that year.
- 16) You testified that you are looking to be eligible to receive APTC to help you cover the cost of your QHP for 2018.

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 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 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 APTC if APTC was paid on behalf of a tax filer, or the tax filer's spouse in a previous year, and the tax filer (or spouse) failed to reconcile the APTC received in 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 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

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).

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 implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible to purchase a QHP at full cost through NYSOH, and not eligible for APTC or cost-sharing reductions, effective January 1, 2018.

On November 20, 2017, NYSOH received your updated application for health insurance. Based on that application, NYSOH determined that you were not eligible for financial assistance because of one of three possible reasons: you were not planning to file a tax return, you are married and planning to file as single, or you received APTC in a prior year and NYSOH could not determine whether a federal tax return was filed for that year.

Since your applications indicated that you are widowed and plan to file a federal income tax return, it must be concluded that NYSOH found you ineligible for APTC because NYSOH could not determine whether you filed a tax return for a year in which you received APTC.

If NYSOH is unable to obtain information that a prior year's tax return has been filed, NYSOH may not determine a tax filer eligible for APTC, if APTC was paid on that tax filer's behalf in a previous year.

You testified that you filed your 2016 income tax return in February or March 2017. However, you testified that you were contacted by the IRS because the APTC you received for 2016 was apparently not reconciled on your income tax return, and the IRS requested that you submit form 1095A and form 8962. It is possible that the data sources NYSOH relied on in making its determinations in November and December 2017 were not yet updated to indicate that you had submitted the information needed by the IRS to reconcile your APTC. However, on December 5, 2017, you submitted a tax return transcript issued by the IRS for your 2016 tax return. The transcript indicates that the IRS received your Form 8962 and 1095A, as information from those forms appears on your IRS transcript, which was retrieved on November 27, 2017 (Document [REDACTED]).

Therefore, the documentation you submitted shows that, as of the date of your application, you had, in fact, filed your 2016 tax return and had reconciled the APTC you received, and the data sources that NYSOH had relied on to make its determination were incorrect.

Since the November 21, 22, and December 5, 2017 eligibility determination notices are not supported by the record, they must be RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance with health insurance, effective January 1, 2018, based on a one-person household with an expected annual income of \$31,200.00, living in Queens County. NYSOH is directed to refer to Document [REDACTED] for verification that you filed your 2016 income tax return and reconciled the APTC that you received for that year.

Decision

The November 21, 22, and December 5, 2017 eligibility determination notices are RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, effective January 1, 2017, based on a one-person household with an annual expected income of \$31,200.00, residing in Queens County. NYSOH is directed to refer to Document [REDACTED] for verification that you filed your 2016 income tax return and reconciled the APTC that you received in that year.

NYSOH is directed to notify you in writing of your eligibility.

Effective Date of this Decision: January 23, 2018

How this Decision Affects Your Eligibility

You will receive a new eligibility determination notice reflecting your eligibility for financial assistance, effective January 1, 2018, based on the information you provided in your November 20, 2017 application, and the information contained in the IRS 2016 tax transcript that you provided to NYSOH.

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 21, 22, and December 5, 2017 eligibility determination notices are RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, effective January 1, 2017, based on a one-person household with an annual expected income of \$31,200.00, residing in Queens County. NYSOH is directed to refer to Document [REDACTED] for verification that you filed your 2016 income tax return and reconciled the APTC that you received in that year.

NYSOH is directed to notify you in writing of your eligibility.

You will receive a new eligibility determination notice reflecting your eligibility for financial assistance, effective January 1, 2018, based on the information you provided in your November 20, 2017 application, and the information contained in the IRS 2016 tax transcript that you provided to NYSOH.

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 1-855-355-5777번으로 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।

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 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 okyerE 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 איר 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).