



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

Notice of Decision

Decision Date: March 01, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024672

[REDACTED]

Dear [REDACTED]

On January 30, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 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
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: March 01, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024672

[REDACTED]

Issue

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

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

Procedural History

On November 21, 2017, you renewed your family's application for financial assistance with health insurance for 2018. That day, a preliminary determination was prepared stating in part, that you were eligible to purchase a qualified health plan (QHP) at full cost.

Also on November 21, 2017, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination notice insofar as you were found ineligible for financial assistance.

On November 22, 2017, NYSOH issued an eligibility determination notice, based on the November 21, 2017 updated application stating in part, 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 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.

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On November 30, 2017, NYSOH issued a plan enrollment confirmation notice, based on your November 29, 2017 plan selection, confirming your enrollment in a full price QHP, effective January 1, 2018.

On January 30, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and was held open until February 14, 2018, to allow you time to submit your IRS Income Tax Return Transcripts for the years 2015 and 2016.

On February 14, 2018, the Appeals Unit received by secure facsimile copies of your IRS Transcripts for tax years 2015 and 2016. These documents were uploaded to your NYSOH account on February 17, 2018 and are incorporated into the record 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) According to your NYSOH account, you were eligible for APTC in prior years through NYSOH.
- 2) You testified that you expect to file your tax return for 2018 with a tax filing status of Head of Household (with qualifying individual). You will claim two dependents on that tax return.
- 3) You are seeking insurance for yourself.
- 4) You testified that your 2015 and your 2016 tax returns were filed on time.
- 5) You testified that you were not sure if you reconciled your APTC on your 2015 and 2016 tax returns.
- 6) On February 14, 2018, you submitted to the Appeals Unit copies of your IRS tax transcripts for tax years 2015 and 2016. On February 17, 2018, these documents were uploaded to your NYSOH account (see Document [REDACTED]).
- 7) Your 2015 IRS tax transcript shows you filed your 2015 tax return on April 15, 2016, and your 2016 tax return was filed on April 15, 2017. Both transcripts show that a Form 8962 was filed in those tax years.
- 8) According to IRS rules, form 8962 is used to figure the amount of your premium tax credit and reconcile it with any APTC you may have received.

- 9) According to your November 21, 2017 application, your expected household income for 2018 is \$44,200.01. You testified this amount was accurate.
- 10) Your application states that you will not be taking any deductions on your 2018 tax return.
- 11) Your application states that you live in Nassau County.
- 12) Your NYSOH account indicates that the reason why you are not eligible for APTC and cost-sharing reductions is because you do not meet the non-financial APTC requirements.

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 APTC when it was paid on behalf of the tax filer or the taxpayer's spouse for a year which the tax data would be utilized for verification of household income and size, and that tax filer and/or spouse did not file a tax return for that year to reconcile the receipt of APTC (45 CFR § 155.305(f)(4)).

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).

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

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return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security in order 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 in order 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)).

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 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.

You are in a three-person household. You expect to file your 2018 income tax return as Head of Household (with qualifying individual). You will claim two dependents on that tax return.

On November 21, 2017, you renewed your family's application for financial assistance with health insurance for 2018. That same day, a preliminary determination was prepared by NYSOH stating in part, that you were eligible to

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purchase a QHP at full cost. Your NYSOH account indicates that the reason why you were not eligible for APTC and cost-sharing reductions is because you failed to meet non-financial APTC requirements. On November 22, 2017, NYSOH issued an eligibility determination notice based on the November 21, 2017 updated application stating that you were not eligible for APTC and cost-sharing reductions because NYSOH was missing information about your taxes.

The record reflects that at the time of your November 21, 2017 application, NYSOH had not received information from the IRS that your household's tax returns for 2015 or 2016 had been properly filed or reconciled. 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 the tax filer's behalf in a previous year.

However, on February 14, 2018, you submitted to the Appeals Unit copies of your IRS tax transcripts for the years 2015 and 2016. On February 17, 2018 these documents were uploaded to your NYSOH account. These transcripts show that you filed your taxes for 2015 and 2016 on April 15, 2016, and April 15, 2017 respectively. These transcripts also show that you reconciled your APTC for those years. Therefore, at the time of the November 21, 2017 application, you had in fact filed and reconciled your 2015 and 2016 tax returns, and the data sources NYSOH relied on to make its determination were incorrect.

Since the November 22, 2017 eligibility determination notice is not supported by the record as developed by your telephone hearing and the documents you submitted, it is **RESCINDED**, and your case is **RETURNED** to NYSOH to rerun your application to ascertain your eligibility for financial assistance with health insurance as of January 1, 2018, for a three-person household with an expected annual household income of \$44,200.01, residing in Nassau County. NYSOH is directed to refer to your IRS tax transcripts for 2015 and 2016 (Document [REDACTED]) for verification that you filed and reconciled your taxes for those years.

Decision

The November 22, 2017 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to rerun your application to ascertain your eligibility for financial assistance with health insurance as of January 1, 2018, for a three-person household with an expected annual household income of \$44,200.01, residing in Nassau County. NYSOH is directed to refer to your IRS tax transcripts for 2015 and 2016 (Document [REDACTED]) for verification that you filed and reconciled your taxes for those years.

Effective Date of this Decision: March 01, 2018

How this Decision Affects Your Eligibility

NYSOH erred in finding you eligible for a full pay qualified health plan based on your failure to file or reconcile a prior year's tax return.

Your case is being sent back to NYSOH to redetermine your eligibility as of January 1, 2018.

You will receive a new eligibility determination notice reflecting your eligibility for financial assistance as of January 1, 2018.

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 case 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

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- 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 22, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to rerun your application to ascertain your eligibility for financial assistance with health insurance as of January 1, 2018, for a three-person household with an expected annual household income of \$44,200.01, residing in Nassau County. NYSOH is directed to refer to your IRS tax transcripts for 2015 and 2016 (Document [REDACTED]) for verification that you filed and reconciled your taxes for those years.

NYSOH erred in finding you eligible for a full pay qualified health plan based on your failure to file or reconcile a prior year's tax return.

Your case is being sent back to NYSOH to redetermine your eligibility as of January 1, 2018.

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 will receive a new eligibility determination notice reflecting your eligibility for financial assistance as of January 1, 2018.

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)

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&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 אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.