



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

Notice of Decision

Decision Date: March 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024781

[REDACTED]

Dear [REDACTED],

On February 1, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 2, 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: March 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024781

[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 that you and your spouse were not eligible for advance payments of the premium tax credit (APTC), effective December 1, 2017?

Procedural History

On October 23, 2015, NYSOH issued a renewal notice, stating that based on the information from federal and state data sources, NYSOH could not make a decision about whether or not you qualified for financial help paying for your health coverage. You were directed to update the information in your account by December 15, 2015.

An updated application was not submitted by the December 15, 2015 deadline.

On December 21, 2015, NYSOH prepared a preliminary determination stating that you were only eligible to purchase a qualified health plan at full cost because you did not respond to the renewal notice within the required timeframe. This eligibility was effective as of January 1, 2016.

On December 24, 2015, NYSOH issued a plan enrollment notice stating that you were enrolled in a full cost qualified health plan, as well as a dental plan, effective January 1, 2016.

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On March 12, 2016, NYSOH issued a disenrollment notice stating that your coverage with your health plan was terminated effective January 31, 2016, because premium payments had not been received by the health plan.

On July 11, 2016, you submitted an updated application for financial assistance; specifically, you added your spouse to your account.

On July 12, 2016, NYSOH issued an eligibility determination notice, stating that you and your spouse were eligible to receive up to \$452.00 in APTC, effective August 1, 2016.

Also on July 12, 2016, NYSOH issued a plan enrollment notice stating that you and your spouse were enrolled in a qualified health plan, effective August 1, 2016.

Also on July 12, 2016, NYSOH issued a disenrollment notice stating that your coverage in your individual health plan would end effective July 31, 2016, because you were no longer eligible to enroll in the current plan.

On October 18, 2016, NYSOH issued a renewal notice, stating that you and your spouse were eligible to receive up to \$628.94 per month in APTC, effective January 1, 2017.

On December 8, 2016, NYSOH issued a plan enrollment notice stating that you and your spouse were enrolled in a qualified health plan, effective January 1, 2017.

On October 24, 2017, NYSOH issued a renewal notice stating, based on the information from federal and state sources, NYSOH could not make a decision about whether you and your spouse qualify for financial help with health insurance. You were directed to update your account between November 16, 2017 and December 15, 2017.

On November 1, 2017, you submitted an application for financial assistance.

On November 2, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective December 1, 2017. The notice stated that you were ineligible for financial assistance because APTC payments were made to your insurance company to reduce your premium costs in a prior year and NYSOH could not tell if you filed a federal tax return for that year.

Also on November 2, 2017, NYSOH issued a plan enrollment notice stating that you and your spouse were enrolled in a qualified health plan, effective January 1, 2017.

On November 13, 2017, NYSOH uploaded to your account a letter you submitted, dated November 14, 2017, in which you requested an appeal insofar as you and your spouse were determined not eligible for APTC. You also requested a corrected 2016 1095-A Form.

On November 20, 2017, you submitted an updated application for financial assistance with health insurance.

On November 21, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2018. The notice stated that you were ineligible for financial assistance because APTC payments were made to your insurance company to reduce your premium costs in a prior year and NYSOH could not tell if you filed a federal tax return for that year.

Also on November 21, 2017, NYSOH issued a plan enrollment notice stating that you and your spouse were enrolled in a qualified health plan at full cost, effective January 1, 2018.

On December 4, 2017, an application for financial assistance with health insurance was run on your behalf.

On December 5, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for APTC for a limited time, effective December 1, 2017, because you had been granted Aid to Continue until a decision is made on your appeal.

On December 9, 2017, NYSOH issued a plan enrollment notice stating that you and your spouse were enrolled into a qualified health plan, with a monthly premium of \$856.94 per month after the application of \$732.00 in APTC, effective January 1, 2018.

On February 1, 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 are seeking financial assistance with health insurance for you and your spouse in 2018.
- 2) According to the November 21, 2017 eligibility determination notice you and your spouse were only eligible to purchase a qualified health plan at

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full cost as of January 1, 2018, because APTC payments were made to your insurance company to reduce your premium costs in a prior year and NYSOH could not tell if you filed a federal tax return for that year.

- 3) The eligibility tab under the December 21, 2015 application states that you were only eligible to purchase a qualified health plan at full cost because you did not respond to your renewal notice within the required timeframe. This eligibility was effective as of January 1, 2016.
- 4) Your NYSOH account does not contain an eligibility determination notice stating your eligibility as of January 1, 2016, but the December 24, 2015 plan enrollment notice states that your enrollment start date was January 1, 2016 (see Document [REDACTED]).
- 5) According to the December 24, 2015 plan enrollment notice, you were enrolled in a silver-level qualified health plan with United HealthCare at full cost of \$555.39, and had dental coverage through [REDACTED], with a monthly premium of \$16.29, both effective January 1, 2016 (see Document [REDACTED]).
- 6) You testified that you have never paid a full premium, and that you always had a tax credit.
- 7) You testified that the disenrollment from your silver-level qualified health plan, effective January 31, 2016, for non-payment of premium was a mistake and that you had coverage with that health plan through July 31, 2016.
- 8) You submitted a certificate of health insurance coverage from UnitedHealthcare showing that you had coverage from January 1, 2016 through July 31, 2016 (see Document [REDACTED]).
- 9) According to your NYSOH account, on July 13, 2017, you uploaded a notice from the IRS, dated June 26, 2017, indicating that your December 2016 Form 1040 was received. The notice further stated that:

...According to our records, advance payments of the premium tax credit were made for health care coverage from the Health Insurance Marketplace for you or someone listed on your return. If advanced; payments of the premium tax credit were made for you or someone else listed on your return. If advance payments of the premium tax credit were made for you or someone else listed on your return, you must use Form 8962, Premium Tax Credit, to reconcile the advance credit payments with the amount of the premium tax credit you are allowed for the year.

You should have received a Form 1095-A, Health Insurance Marketplace Statement, from the Health Insurance Marketplace, refer to the Form 1095-A and Form 8962 instructions to help you complete Form 8962....

(see Document [REDACTED]).

- 10) You testified that you have been seeking a corrected 2016 Form 1095-A for your coverage with UnitedHealthcare for the period of January 2016 through July 2016, since July 2017, and that you have not yet received one.
- 11) Your account contains two 2016 Forms 1095-A, one of which shows that you paid a monthly premium of \$569.46 for January 2016 only (see Document [REDACTED]).
- 12) According to your NYSOH account, you and your spouse received monthly APTC of \$452.00 beginning August 1, 2016 through December 31, 2016. A Form 1095-A to this effect is located within your NYSOH account (see Document [REDACTED]).
- 13) You submitted an application for financial assistance for you and your spouse on November 1, 2017. Based on that application, you and your spouse were determined eligible to purchase a qualified health plan at full cost, effective December 1, 2017, because you had not reconciled APTC on your 2016 federal tax return. You and your spouse were subsequently enrolled in a qualified health plan at full cost, effective January 1, 2018.
- 14) According to your NYSOH account, you expect to file your 2018 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 15) Your application states that you and your spouse live in [REDACTED], NY.

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

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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 determine a tax filer eligible for APTC if APTC was paid on the tax filer's behalf in a previous year, and a tax return was not filed for that previous 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 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 first issue under review is whether NYSOH properly determined that you and your spouse were not eligible for APTC, effective December 1, 2017.

On November 1, 2017, NYSOH received your application for financial assistance. On November 2, 2017, NYSOH issued an eligibility determination notice, stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective December 1, 2017. The notice stated that you were ineligible for financial assistance because APTC payments were made to your insurance company to reduce your premium costs in a prior year and NYSOH could not tell

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if you filed a federal tax return for that year. According to the IRS notice, dated June 26, 2017, you and your spouse received APTC in 2016 and your 2016 taxes were not properly reconciled.

The record does not contain an eligibility determination notice stating your eligibility as of January 1, 2016. However, your account contains the application run on December 21, 2015. The eligibility tab under that application states that you were only eligible to purchase a qualified health plan at full cost because you did not respond to your renewal notice within the required timeframe. This eligibility was effective as of January 1, 2016.

On December 24, 2015, NYSOH issued a plan enrollment notice stating that you were enrolled in a full cost qualified health plan, as well as a dental plan, effective January 1, 2016, at a total cost of \$571.68. The record reflects that you were subsequently disenrolled from coverage effective January 31, 2016, for failure to pay the monthly premium on time. You testified that the disenrollment from UnitedHealthcare for non-payment of premium was a mistake, and that you had coverage with that health plan through July 31, 2016. You submitted a certificate of health insurance coverage from UnitedHealthcare, which shows that you had coverage from January 1, 2016 through July 31, 2016.

Your account contains two 2016 Forms 1095-A, one of which shows that you had coverage through UnitedHealthcare and paid a monthly premium of \$569.46 for January 2016 only. You testified that you have been seeking a corrected 2016 Form 1095-A for your coverage with [REDACTED] since July 2017, showing that you were enrolled from January 1, 2016 through July 31, 2016, but that you have not yet received one.

The credible evidence of record, namely, the June 26, 2017 IRS notice and your testimony, support that you did not reconcile APTC on your 2016 federal tax return.

Furthermore, the record reflects that at the time of your November 1, 2017 application, NYSOH had not received information from the IRS that your household's federal tax return for 2016 had been properly filed and reconciled. If NYSOH is unable to obtain information that a prior year's tax return has been filed or reconciled, NYSOH may not determine a tax filer eligible for APTC, if APTC was paid on the tax filer's behalf in a previous year.

Based on your testimony regarding the 2016 Form 1095-A and the record, we must assume that at the time of your November 1, 2017 application the data sources NYSOH relied on to make its determination were correct and that you had not in fact properly reconciled APTC on your 2016 tax return.

Therefore, NYSOH's November 2, 2017 eligibility determination notice stating that you and your spouse were not eligible for APTC because APTC was paid to

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your health insurance company on your behalf in a prior year and NYSOH could not ascertain if a federal tax return was filed or properly reconciled for that year is AFFIRMED.

However, you provided documentation that contradicts the Form 2016 1095-A in your account; namely, a certificate of health insurance showing coverage from January 1, 2016 through July 31, 2016 (Document [REDACTED]). The 2016 Form 1095-A indicates that you only had coverage with UnitedHealthcare in January 2016, and the certificate of health insurance coverage you provided indicates that you had coverage from January 1, 2016 through July 31, 2016. Therefore, your case is RETURNED to NYSOH to investigate the accuracy of the 2016 Form 1095-A concerning your coverage through UnitedHealthcare in 2016. If NYSOH determines that the 2016 Form [REDACTED] is not correct, then NYSOH is directed to provide you with an updated and corrected form from January 2016 through July 2016.

Decision

The November 2, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to investigate the accuracy of the 2016 Form 1095-A concerning your coverage through UnitedHealthcare in 2016. If NYSOH determines that the 2016 Form 1095-A is not correct, then NYSOH is directed to provide you with an updated and corrected form for the period of January 2016 through July 2016.

Effective Date of this Decision: March 16, 2018

How this Decision Affects Your Eligibility

You and your spouse were properly determined not eligible for APTC in 2018.

Your case is being sent back to NYSOH to investigate the accuracy of the 2016 Form 1095-A for your coverage with UnitedHealthcare for the period of January 2016 through July 2016, and if necessary, to provide a corrected form.

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.

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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

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Summary

The November 2, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to investigate the accuracy of the 2016 Form 1095-A concerning your coverage through UnitedHealthcare in 2016. If NYSOH determines that the 2016 Form 1095-A is not correct, then NYSOH is directed to provide you with an updated and corrected form for the period of January 2016 through July 2016.

You and your spouse were properly determined not eligible for APTC in 2018.

Your case is being sent back to NYSOH to investigate the accuracy of the 2016 Form 1095-A for your coverage with UnitedHealthcare for the period of January 2016 through July 2016, and if necessary, to provide a corrected form.

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 srε wo, frε 1-855-355-5777. ye&εtumi 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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