



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

Notice of Decision

Decision Date: January 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024847

[REDACTED]

[REDACTED]

On January 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health’s November 28, 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.

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Decision Date: January 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024847

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Issues

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

Did NY State of Health properly determine that you were not eligible for advance payments of the premium tax credit or cost-sharing reductions, effective January 1, 2018?

Did NY State of Health properly determine that you were not eligible for the Essential Plan?

Procedural History

On November 27, 2017, you applied for health insurance and financial assistance through NY State of Health (NYSOH) for 2018. That day, a preliminary eligibility determination was prepared stating that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2018.

Also on November 27, 2017, you contacted NYSOH's Account Review Unit and appealed that preliminary determination notice insofar as you were not eligible for the Essential Plan.

On November 28, 2017, NYSOH issued an eligibility determination notice based on the information contained in your November 27, 2017 application, stating you were eligible to purchase a qualified health plan at full cost beginning January 1, 2018. The notice stated that you do not qualify for an advance premium tax credit and cost sharing reductions because your application states that the primary tax filers in your household are married but not filing taxes jointly. It also stated that

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you do not qualify for the Essential Plan because your annual household income was over the allowable income limits for that program.

On December 6, 2017, NYSOH issued a notice stating that you were eligible for the Essential Plan with a \$20.00 monthly premium for a limited time, effective December 1, 2017. This was because you had been granted Aid to Continue pending the outcome of your appeal.

On December 6, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in an Essential Plan, effective December 1, 2017.

On January 18, 2018, a Hearing Officer called you at the scheduled hearing time. You stated that you did not receive the evidence packet prepared by NYSOH for the hearing. The Hearing Officer agreed to adjourn your hearing to January 22, 2018 at 3:00pm, to allow time for you to receive and review the evidence packet.

On January 22, 2018, you had a telephone hearing with a hearing Officer from NYSOH's Appeal Unit. You confirmed you reviewed the evidence packet prepared by NYSOH. 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) The application submitted on November 27, 2017, lists your marital status as separated and your tax filing status as single. The application also states that you will not be claiming any dependents on your tax return
- 2) You testified that you are currently married, but that you do not know what your marital status will be when filing your 2018 tax return.
- 3) You testified that you do not currently have a decree of divorce or a legal separation document.
- 4) You testified that you do not know which tax filing status you intend to select when filing your 2018 tax return.
- 5) You testified that you were informed that you can file your 2016 and 2017 taxes as married filing jointly.
- 6) You testified that you were informed that you can claim your two step-children as dependents for prior tax filing years because of the amount of time they resided with you and your spouse.

- 7) You testified that your step-children no longer reside with you.
- 8) The application submitted on November 27, 2017 states that you earn \$520.00 on a weekly basis.
- 9) You testified that your anticipated income for 2018 is \$27,040.00.
- 10) Your application states that you live in Broome 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 the Premium Tax Credit

APTC is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable 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)).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
 - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
 - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

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 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 2017 FPL, which is \$12,060.00 for a one-person household (82 Fed. Reg. 8831).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage; therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Legal Analysis

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The first issue is whether NYSOH properly determined that you are not eligible for APTC and cost-sharing reductions.

In the eligibility determination notice issued on November 28, 2017, NYSOH denied an APTC to you because you indicated that you were separated from your spouse and did not plan to file a joint federal income tax return.

To qualify for APTC, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the information in the record and your testimony at the hearing, you are still married to your spouse and have not obtained a decree of divorce or of separate maintenance. You testified that you were informed that you can file your 2016 and 2017 taxes as married filing jointly. However, you were unable to state whether you will file a joint federal income tax return with your spouse for the 2018 tax year.

There is an exception, as noted above, that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for APTC. However, the record does not support a finding that you meet the necessary requirements for that exception.

Eligibility for APTC is determined based on expected household income and filing status of the year that the person is seeking financial assistance for. Therefore, since you were unable to state how you intend to file your 2018 taxes, NYSOH was correct when it found that you were not eligible for APTC due to your tax filing status based on the information you had in your application.

Cost-sharing reductions are available only to those who meet the requirements for APTC. Since you did not qualify for APTC, NYSOH correctly found that you were not eligible for cost-sharing reductions.

The second issue under review is whether NYSOH properly determined you were not eligible for the Essential Plan.

Your application indicates that you will be filing your tax return as single, and claiming no dependents on that tax return. Therefore, you are in a one-person household.

The Essential Plan is generally 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 your November 27, 2017 application, you listed your income as \$520.00 per week. You testified that your anticipated income for 2018 was \$27,040.00 per

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year, which corroborates the weekly salary listed in your November 27, 2017 application (\$520.00 x 52 weeks per year = \$27,040.00 per year).

On the date of your application, the relevant FPL was \$12,060.00 for a one-person household. Since an annual household income of \$27,040.00 is 224.21% of the 2017 FPL, NYSOH correctly found you were not eligible for the Essential Plan.

Since NYSOH correctly determined that you are not eligible for APTC, cost-sharing reductions because of your tax filing status, or the Essential Plan because you are over income, the November 28, 2017 notice of eligibility determination is AFFIRMED.

Decision

The November 28, 2017 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 26, 2018

How this Decision Affects Your Eligibility

You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

You remain ineligible for an APTC because you indicated that you were separated and do not plan to file a joint federal income tax return with your spouse.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

You remain ineligible for the Essential Plan because your household income is above the allowable limit for that program.

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

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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):

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- 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 28, 2017 eligibility determination is **AFFIRMED**.

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You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

You remain ineligible for an APTC because you indicated that you were separated and do not plan to file a joint federal income tax return with your spouse.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

You remain ineligible for the Essential Plan because your household income is above the allowable limit for that program.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



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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 sre wo, fre 1-855-355-5777. ye&etumi 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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