



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

Notice of Decision

Decision Date: February 28, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025143

[REDACTED]

[REDACTED]

On February 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 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 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: February 28, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025143



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 and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH and ineligible for advanced payments of the premium tax credit or cost-sharing reductions, effective January 1, 2018?

Procedural History

On December 1, 2017, you updated you and your spouse's application for financial assistance for health insurance. That day, NYSOH issued a preliminary eligibility determination stating that you and your spouse were ineligible for financial assistance; however, you could purchase a qualified health plan at full cost through NYSOH.

Also on December 1, 2017, you spoke to NYSOH's Account Review Unit and appealed that preliminary determination insofar as you and your spouse were not eligible for advance premium tax credit (APTC) and cost-sharing reductions.

On December 2, 2017, NYSOH issued an eligibility determination stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017. The notice stated that you and your spouse were not eligible to receive APTC or cost-sharing reductions because APTC was paid to your and your spouse's health insurance company to reduce your premium costs in a prior year, and NYSOH could not ascertain if a federal tax return was filed for that year.

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 December 14, 2017, NYSOH issued a notice stating that you and your spouse were eligible for APTC with cost-sharing reductions for a limited time. This is because you and your spouse were granted Aid to Continue pending the outcome of this appeal.

Also on December 14, 2017, NYSOH issued a notice stating that you and your spouse were enrolled in a qualified health plan with APTC and cost-sharing reductions, effective January 1, 2018.

On February 7, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, [REDACTED] interpreted. The record was developed during the hearing and left open until March 16, 2018, to allow you time to submit a copy of you and your spouse's IRS tax transcript for your 2016 tax return.

On February 22, 2018, NYSOH received the requested documentation you submitted by fax, which was made part of the record as Appellant's Exhibit #1. The record was closed that day.

Findings of Fact

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

- 1) You and your spouse were eligible for and received APTC and cost-sharing reductions in prior years through NYSOH.
- 2) You testified that you and your spouse submit your taxes as married filing jointly.
- 3) You testified that you and your spouse use an accountant to file your taxes, and that you believed your accountant filed your 2016 taxes on time.
- 4) You testified that you discovered that there was a problem with you and your spouse's 2016 taxes when you contacted NYSOH to inquire about financial assistance. You further testified that your accountant made an error, and did not file you and your spouse's taxes until the last week of January 2018.
- 5) On February 22, 2018, you provided a copy of you and your spouse's 2016 IRS tax transcript. This transcript indicates that the IRS received your and your spouse's 2016 tax return on January 30, 2018. This transcript also indicates that a Form 8962 was filed, and includes information regarding your APTC for 2016.

- 6) According to the IRS, Form 8962 is used to figure the amount of your premium tax credit and reconcile it with any APTC you may have received.
- 7) You testified that you and your spouse intend to file a tax return for 2018.
- 8) You testified that you and your spouse anticipate filing your 2018 tax return as married filing jointly.
- 9) Your application states that you and your spouse will not be claiming any dependents on that tax return.
- 10) You testified that you and your spouses expected 2018 income is \$43,000.00.
- 11) Your application states that you and your spouse live in Nassau County, 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

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

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)).

People who use 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 their federal income tax return). Those who

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).

take less tax credit in advance than they 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).

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)).

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 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)).

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

On December 1, 2017, NYSOH received you and your spouse's application for financial assistance for 2018. On December 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 through NYSOH, effective January 1, 2017, and ineligible to receive APTC or cost-sharing reductions. This was because APTC was paid to you and your spouse's health insurance company in a prior year but NYSOH could not ascertain if a federal tax return was filed for that year.

You testified that you and your spouse file your taxes through an accountant, and due to an error by your accountant, your taxes were not filed until the last week of January 2018. You and your spouse's 2016 IRS tax transcript shows that the IRS received your tax return on January 30, 2018.

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 such tax credit was paid on the tax filer's behalf in a previous year.

The record reflects that you and your spouse received APTC in 2016, and you and your spouse's 2016 tax return had not been received by the IRS at the time of your December 1, 2017 application. Accordingly, NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost through NYSOH, and ineligible to receive APTC or cost-sharing reductions. Therefore, December 2, 2017 eligibility determination notice is AFFIRMED.

However, as you and your spouse's 2016 IRS tax transcript shows that the IRS received your 2016 tax return on January 30, 2018, the IRS may have since updated its electronic data sources to reflect this filing. Therefore, your case is RETURNED to NYSOH to rerun you and your spouse's application in order to ascertain whether the IRS data sources now reflect that you and your spouse have filed your 2016 tax return, and to determine whether or not you and your spouse are now eligible for financial assistance with health insurance.

Decision

The December 2, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to rerun you and your spouse's application in order to ascertain whether the IRS data sources now reflect that you and your spouse have filed your 2016 tax return, and to determine whether or not you and your spouse are now eligible for financial assistance with health insurance.

Effective Date of this Decision: February 28, 2018

How this Decision Affects Your Eligibility

You and your spouse remain eligible to purchase a qualified health plan at full cost through NYSOH.

Your case is being sent back to NYSOH to determine if the IRS data sources now reflect that you and your spouse filed your 2016 tax return, and if so, to redetermine you and your spouse's eligibility for financial assistance with health insurance based on your household size and expected annual household income for 2018.

If You Disagree with this Decision (Appeal Rights)

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 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

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).

Summary

The December 2, 2017 eligibility determination notice is **AFFIRMED**.

You and your spouse remain eligible to purchase a qualified health plan at full cost through NYSOH.

Your case is **RETURNED** to NYSOH to rerun you and your spouse's application in order to ascertain whether the IRS data sources now reflect that you and your spouse have filed your 2016 tax return, and to determine whether or not you and your spouse are now eligible for financial assistance with health insurance.

Your case is being sent back to NYSOH to determine if the IRS data sources now reflect that you and your spouse filed your 2016 tax return, and if so, to redetermine you and your spouse's eligibility for financial assistance with health insurance based on your household size and expected annual household income for 2018.

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 1-855-355-5777 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।

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&b&tumi ama wo obi a okyer& 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.

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).