



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

Notice of Decision

Decision Date: March 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025272

[REDACTED]

Dear [REDACTED],

On February 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 5, 2017 eligibility determination.

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 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025272

[REDACTED]

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 were eligible to purchase a qualified health plan at full cost through NYSOH, and not eligible for advanced payments of the premium tax credit or cost-sharing reductions, effective January 1, 2018?

Procedural History

On November 23, 2015, NYSOH issued an eligibility determination notice stating you were eligible to receive advance payments of the premium tax credit (APTC) of up to \$189.00 per month, effective January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming your enrollment in a platinum-level qualified health plan for a cost of \$460.25 per month, after the application of \$189.00 in monthly APTC, starting January 1, 2016.

On January 17, 2017, NYSOH issued a Form 1095-A, Health Insurance Marketplace Statement for year 2016, which confirmed your receipt of APTC during 2016.

On December 4, 2017, you updated your application for financial assistance with health insurance for 2018. That day, NYSOH issued a preliminary eligibility determination stating that you were not eligible to receive help paying for your

health insurance coverage; however, you could purchase a qualified health plan at full cost through NYSOH.

Also on December 4, 2017, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination notice insofar as you were found ineligible for APTC.

On December 5, 2017, NYSOH issued an eligibility determination notice, based on the December 4, 2017 application, stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018. The notice further stated you were not eligible for a tax credit, because you said you would not be filing a tax return or were married and filing separately, or APTC payments were made to a health insurance company to reduce your premium costs in a prior year and NYSOH could not determine if a federal tax return was filed for that year.

On February 7, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until February 22, 2018 to allow you to submit a copy of a transcript of your 2016 income tax return. On February 20, 2018, you uploaded to your NYSOH account a letter from your tax preparer dated February 8, 2018 and an unsigned copy of an amended 2016 income tax return. Those documents are collectively marked as Appellant's Exhibit # 1 and are included in the record. The record is now closed.

Findings of Fact

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

- 1) You are seeking to be found eligible for APTC for 2018 coverage year.
- 2) Your NYSOH account reflects that APTC was paid on your behalf in 2016.
- 3) You testified that you anticipate filing your 2018 tax return as single and will claim no dependents on that tax return.
- 4) According to your December 4, 2017 application for financial assistance, your expected 2018 annual income will be \$26,464.00. You testified that this is an accurate estimate of your self-employment income.
- 5) According to your NYSOH account, as of your December 4, 2017 application, NYSOH found you ineligible for APTC because information from state and federal data sources indicated advance payments of the premium tax credit were made to your health insurance company to

reduce your premium costs in a prior year and NYSOH could not tell if a federal tax return was filed for that year with form 8962.

- 6) On December 13, 2017, you submitted a copy of the IRS transcript of your 2016 income tax return. The transcript is dated December 13, 2017 for tax year ending December 31, 2016. The transcript reflects that form 8962 was not filed with the 2016 income tax return (see Document [REDACTED]).
- 7) On February 20, 2018, you uploaded to your account a letter dated February 8, 2018 from your accountant/tax preparer. In that letter, your accountant/tax preparer stated that your original 2016 income tax return did not include the form 8962. The letter further states that an amended income tax return for tax year 2016 has now been filed which includes the form 8962 which reconciles your receipt of APTC for the year 2016 (see Document [REDACTED]).
- 8) Also on February 20, 2018 your uploaded a copy of your unsigned amended 2016 tax return. No current IRS transcript of your 2016 income tax return or 2016 amended tax return was submitted with your February 20, 2018 upload of documents.
- 9) Your application states that you live in Richmond 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 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 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 for a year which the tax data would be utilized for verification of household income and size, and that tax filer 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 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 CFR § 155.310(f), 45 CFR § 155.330(e)(f)(1)(i)).

Cost-Sharing Reductions

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a qualified health plan 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 qualified health plan (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you 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 4, 2017, NYSOH received your updated application for financial assistance for 2018. On December 5, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018, and ineligible to receive APTC or cost-sharing reductions. This was because APTC was paid to a health insurance company on your behalf in a prior year and NYSOH could not ascertain if a federal tax return was filed for that year with form 8962.

At the time of your December 4, 2017 application, NYSOH had not received information from the IRS that your household's tax return for 2016 had been properly filed or reconciled. If NYSOH is unable to obtain information that a prior year's tax return has been filed and APTC 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.

After you received the December 5, 2017 eligibility determination notice, you requested and obtained an IRS transcript of your 2016 income tax return. That transcript is dated December 13, 2017 and you submitted that document to NYSOH on December 13, 2017. That transcript shows that you did file your 2016 income tax return but you did not reconcile the receipt of the APTC you received in 2016 by filing form 8962. Following the hearing, you submitted a letter from your accountant/tax preparer in which he confirms that form 8962 was not filed with your original 2016 income tax return. Along with that letter, you submitted a copy of your unsigned amended 2016 income tax return which purports to include the required form 8962 for the reconciliation of the APTC you received in 2016. However, you have not submitted an updated IRS transcript that reflects the 2016 amended income tax return and that form 8962 was submitted with that amended return. Therefore, the record reflects that you have not submitted sufficient proof that you filed your 2016 tax return and that the APTC that you received in 2016 was reconciled on that return.

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.

As you received APTC in 2016 and there is insufficient evidence in the record to demonstrate that your 2016 tax return was submitted or was reconciled for the APTC you received in that year, the December 5, 2017 eligibility determination notice finding you eligible to purchase a qualified health plan at full cost through

NYSOH, effective January 1, 2018, and ineligible to receive APTC or cost-sharing reductions is AFFIRMED.

This decision does not affect any subsequent eligibility determination or enrollment confirmation notices issued by NYSOH.

However, as the letter from your accountant/tax preparer indicates that you have submitted an amended 2016 tax return which included form 8962 for the reconciliation of APTC, the IRS may have since updated its electronic data sources. Therefore, your case is RETURNED to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed an amended 2016 tax return, and to determine if you are now eligible for financial assistance with health insurance.

Decision

The December 5, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your amended 2016 tax return, and to determine if you are now eligible for financial assistance with health insurance.

Effective Date of this Decision: March 13, 2018

How this Decision Affects Your Eligibility

You 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 filed your amended 2016 tax return, and if so, to redetermine your eligibility for financial assistance with health insurance.

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

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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
- 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

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P.O. Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The December 5, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your amended 2016 tax return, and to determine if you are now eligible for financial assistance with health insurance.

You 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 filed your amended 2016 tax return, and if so, to redetermine your eligibility for financial assistance with health insurance.

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।

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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 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.

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