



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

Notice of Decision

Decision Date: March 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025286

[REDACTED]

Dear [REDACTED],

On February 13, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 5, 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 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025286

[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 and your spouse were eligible to enroll in a qualified health plan only at full cost, effective January 1, 2018?

Procedural History

On December 4, 2017, you submitted an updated application for health insurance for your family. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2018. The notice also stated that your two children were eligible for Child Health Plus with a \$30.00 monthly premium each, effective January 1, 2018.

Also on December 4, 2017, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination notice insofar as you and your spouse were found not eligible for any amount of financial assistance.

On December 5, 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. That notice also stated that you and your spouse were not eligible for an advance premium tax credit (APTC) and cost-sharing reductions because your annual household income was over the allowable income limits for those programs. The notice also stated that your two children

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were eligible for Child Health Plus with a \$30.00 monthly premium each, effective January 1, 2018.

Also on December 5, 2017, NYSOH issued an enrollment notice confirming your December 4, 2017 selection of your children's Child Health Plus plan with a plan enrollment start date of January 1, 2018. The notice also stated that you and your spouse needed to pick a plan.

On December 16, 2017, NYSOH issued a notice stating that you and your spouse were eligible for APTC for a limited time, effective January 1, 2018. This was because you and your spouse had been granted Aid to Continue pending the outcome of your appeal.

Also on December 16, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in bronze-level qualified health plan with a monthly premium of \$158.91 per month after the application of \$623.56 of APTC, with plan enrollment start date of January 1, 2018.

On February 12, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At that time, you requested a one-day delay which the Hearing Officer granted. On February 13, 2018 you had the rescheduled hearing with the Hearing Officer. 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 testified that you expect to file your tax return for 2018 with a tax filing status of married filing jointly. You will claim two dependents on that tax return.
- 2) You are seeking insurance for you and your spouse.
- 3) You testified that you are not appealing your children's Child Health Plus eligibility or premium amount.
- 4) The application that was submitted on December 4, 2017 listed annual household income of \$66,200.00, consisting of the following; \$1,400.00 you earn every two weeks from your employment with [REDACTED] (\$36,400.00 annually), \$1,000.00 you earn every month from your employment with [REDACTED] (\$12,000.00 annually), \$9,800.00 your spouse earns annually from his employment at [REDACTED] and \$8,000.00 your spouse earns annually from [REDACTED]. The total amount of your expected household income for 2018 is [REDACTED].

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\$66,200.00 (\$36,400.00 + \$12,000.00 + \$9,800.00 + \$8,000.00). You testified that this amount was correct.

- 5) According to the application that was submitted on December 4, 2017 your two children were not included as dependents for tax filing status.
- 6) On the December 4, 2017 application in response to the questions related to the two children, "Can that anyone else claiming this person on their taxes?" The application states "Yes" and lists "[redacted] [your spouse]."
- 7) Your application states that you will not be taking any deductions on your 2018 tax return.
- 8) According to your NYSOH account and your testimony you and your family live in Nassau County.
- 9) According to your NYSOH account and your testimony, you and your spouse have received APTC for the last two years.
- 10) You testified that nothing has changed in regard to your family situation.
- 11) You testified that you want you and your spouse to be redetermined eligible for APTC for 2018.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Advance Payments of 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), 26 CFR § 1.36B-2, 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides
minus
- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2018 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3, IRS Rev. Proc. 2017-36).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2017 FPL, which is \$24,600.00 for a four-person household (82 Federal Register 8831).

For annual household income in the range of at least 250% but less than 300% of the 2017 FPL, the expected contribution is between 8.10% and 9.56% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2017-36).

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 their federal income tax return). Those who 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).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were eligible to enroll in a qualified health plan at full cost, effective January 1, 2018.

The application that was submitted on December 4, 2017 listed an annual household income of \$66,200.00, consisting of \$36,400.00 you earn from your employment with [REDACTED], \$12,000.00 you earn from your employment with [REDACTED], \$9,800.00 your spouse earns from his

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employment with [REDACTED] and \$8,000.00 your spouse earns from his employment with [REDACTED]. You testified that these amounts were correct. The eligibility determination relied upon that information.

In your December 4, 2017 application you indicated that you and your spouse would file your 2018 income tax return as married filing jointly. While you testified that you have two children and will claim them both as dependents on your tax return, the December 4, 2017 application does not list the two children as dependents that will be claimed on that income tax return. That application states that the two children can be claimed by someone else for tax purposes. Because of this misstatement, NYSOH determined your household size for purposes of APTC calculation as consisting of only you and your spouse.

However, based on the record and your testimony, you and your spouse are in a four-person household (you, your spouse and two children). You expect to file your 2018 income tax return as married filing jointly and will claim your two children as dependents on that tax return. The individual listed as claiming your two children as dependents is your spouse.

The Appeals Unit finds that the indication that your children were being claimed by another individual was incorrect, and that your household eligibility should have been determined based on a four-person household.

You and your spouse reside in Nassau County, where the second lowest cost silver plan available for a couple through NYSOH costs \$1,076.26 per month.

An annual income of \$66,200.00 is 269.11% of the 2017 FPL for a four-person household. At 269.11% of the FPL, the expected contribution to the cost of the health insurance premium is 8.66% of income, or \$477.74 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for a couple in your county (\$1,076.26 per month) minus your expected contribution (\$477.74 per month), which equals \$598.52 per month. Therefore, NYSOH incorrectly determined you and your spouse to be eligible to purchase a qualified health plan at full cost.

Since the December 5, 2017 eligibility determination notice was based on an incorrect household size it is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your family's eligibility for financial assistance as of December 4, 2017, using a four-person household for a family residing in Nassau County, with expected 2018 annual income of \$66,200.00, and to notify you accordingly.

Decision

The December 5, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your family's eligibility for financial assistance as of December 4, 2017, using a four-person household for a family residing in Nassau County, with expected 2018 annual income of \$66,200.00, and to notify you accordingly.

Effective Date of this Decision: March 20, 2018

How this Decision Affects Your Eligibility

This is not a final determination of your and your spouse's eligibility.

Your case is RETURNED to NYSOH to redetermine your family's eligibility for financial assistance as of December 4, 2017, using a four-person household for a family residing in Nassau County, with expected 2018 annual income of \$66,200.00, and to notify you accordingly.

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

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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 December 5, 2017 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your family's eligibility for financial assistance as of December 4, 2017, using a four-person household for a family residing in Nassau County, with expected 2018 annual income of \$66,200.00, and to notify you accordingly.

This is not a final determination of your and your spouse's eligibility.

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Legal Authority

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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 مجانًا.

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.