



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

Notice of Decision

Decision Date: February 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025299

[REDACTED]

On February 7, 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 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: February 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025299



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did New York State of Health properly determine that you were eligible to purchase a qualified health plan at full cost through NYSOH and ineligible for advanced payments of the premium tax credit, effective January 1, 2018?

Procedural History

On October 25, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On October 26, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective November 1, 2017, and that you no longer qualify for advanced payments of the premium tax credit (ATPC) as of October 31, 2017. This notice further stated that you were not eligible for APTC for one of the following reasons: You told NYSOH that you do not plan on filing a federal tax return; or you are married and told NYSOH that you will file taxes separately from your spouse; or you received APTC in prior years and NYSOH cannot tell if a federal tax return was filed for that year.

Also on October 26, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a full cost qualify health plan, effective January 1, 2018.

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On November 27, 2017, NY State of Health received your updated application for financial assistance with health insurance.

On November 28, 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. This notice further stated that you were not eligible for APTC for one of the following reasons: You told NYSOH that you do not plan on filing a federal tax return; or you are married and told NYSOH that you will file taxes separately from your spouse; or you received APTC in prior years and NYSOH cannot tell if a federal tax return was filed for that year.

On December 4, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as you were found ineligible for financial assistance as of November 1, 2017.

On December 5, 2017, NYSOH issued a plan enrollment notice, based on your plan selection on December 4, 2017, confirming your enrolment in a full pay qualified health plan, effective January 1, 2018.

On December 20, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for APTC, for a limited time, effective January 1, 2018. This notice further stated that you had been granted Aid to Continue until a decision was made on your appeal.

On December 30, 2017, NYSOH issued a plan enrollment notice stating that you were enrolled in a gold-level qualified health plan with \$246.00 in APTC applied to your monthly premium, effective February 1, 2018.

On February 7, 2018, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. During the hearing, you testified that you were no longer interested in pursuing the appeal regarding your APTC for the months of November 2017 and December 2017. Rather, you testified that you would like to appeal your financial assistance for the 2018 health insurance year. As a result, the Hearing Officer agreed to amend the appeal to only review the eligibility determination notice issued on November 28, 2017. The record was developed during the hearing and the record was held open until March 6, 2018 to allow you time to submit supporting documentation.

On February 21, 2018, the NYSOH's Appeals Unit received your supporting documentation by fax. That day, this documentation was made part of the record as "Appellant's Exhibit #1" and the record was closed.

Findings of Fact

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

- 1) According to your NYSOH account, APTC was paid on your behalf in 2016.
- 2) On November 28, 2017, NYSOH issued a notice stating that you were not eligible for financial assistance because APTC had been paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to tell if a federal tax return was filed for that year.
- 3) You testified that you used an accountant to file your 2016 federal tax return.
- 4) You testified that you filed your 2016 federal tax return on [REDACTED].
- 5) You testified that, after filing your 2016 federal tax return, you received a letter from the Internal Revenue Service (IRS) stating that your 2016 federal tax return was missing Form 8962.
- 6) You testified that you contacted your accountant and your accountant filed Form 8962 with the IRS on April 6, 2017.
- 7) On February 21, 2017, you submitted a tax return transcript issued by IRS for your 2016 federal tax return. The transcript indicates that the IRS received your 2016 federal income tax return on April 15, 2017, and that they received form 8962 with your 2016 federal tax return (see Appellant's Exhibit #1).
- 8) According to your NYSOH account and your testimony, you are applying for health insurance for yourself.
- 9) According to your NYSOH account and your testimony, you expect to file a 2018 federal income tax return with the tax filing status of single.
- 10) You testified that your annual expected income for 2018 is currently \$30,500.00.
- 11) Your NYSOH application indicates, and you testified that, you reside in Richmond County.
- 12) You testified that you would like to be able to receive APTC in 2018 to offset the cost of your health insurance premium.

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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 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)).

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, effective January 1, 2018.

On November 27, 2017, NYSOH received your updated application for health insurance. Based on that application, NYSOH determined that you were not eligible for financial assistance because, based on federal and state data sources, it appeared that you had not filed a prior year's tax return and as a result, did not reconcile your APTC that you received with the IRS.

Applicants who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income as stated on their NYSOH application, with their actual income as stated on their federal income tax return. Therefore, if APTC was paid on that tax filer's behalf in a previous year and NYSOH is unable to determine whether the APTC was reconciled on their federal tax return, NYSOH may determine a tax filer ineligible for APTC.

You testified that you filed your 2016 federal tax return through the assistance of an accountant. You further testified that shortly after submitting your tax return you received a letter from the IRS stating that you did not submit Form 8962 with your tax return. However, you testified that after receiving this letter, your accountant submitted Form 8962 to the IRS on April 6, 2017. On February 21, 2017, you submitted a tax return transcript issued by IRS for your 2016 federal tax return. The transcript indicates that the IRS received your 2016 federal income tax return on [REDACTED]. The transcript also indicated that you filed form 8962 with your federal tax return (see Appellant's Exhibit #1).

Therefore, at the time of the November 27, 2017 application, the record supports that you filed your 2016 federal tax return with the requisite information, including reconciliation of your APTC, and the data sources that NYSOH had relied on to make its determination were incorrect.

Since the November 28, 2017 eligibility determination notice is not supported by the record, it must be RESCINDED.

Since the November 28, 2017 eligibility determination notice is no longer supported by the record as developed during the hearing, your case is RETURNED to NYSOH to rerun your application to ascertain your eligibility for financial assistance with health insurance as of November 27, 2017, using a one-person household with an expected annual income of \$30,500.00, for an individual residing in Richmond County. NYSOH is directed to refer to Appellant's Exhibit #1 for verification that you filed your 2016 income tax return with form 8962.

Decision

The November 28, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to rerun your application to ascertain your eligibility for financial assistance with health insurance as of November 27, 2017, using a one-person household with an expected annual income of \$30,500.00, for an individual residing in Richmond County. NYSOH is directed to refer to Appellant's Exhibit #1 for verification that you filed your 2016 income tax return with form 8962.

Effective Date of this Decision: February 26, 2018

How this Decision Affects Your Eligibility

You will receive a new eligibility determination notice reflecting your eligibility for financial assistance as of November 27, 2017.

You will be responsible for any premium payments or your premium responsibility, whichever may apply, for any months you are enrolled into coverage.

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 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

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).

- 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

Summary

The November 28, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to rerun your application to ascertain your eligibility for financial assistance with health insurance as of November 27, 2017, using a one-person household with an expected annual income of \$30,500.00, for an individual residing in Richmond County. NYSOH is directed to refer to Appellant's Exhibit #1 for verification that you filed your 2016 income tax return with form 8962.

You will receive a new eligibility determination notice reflecting your eligibility for financial assistance as of November 27, 2017.

You will be responsible for any premium payments or your premium responsibility, whichever may apply, for any months you are enrolled into coverage.

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).

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 1-855-355-5777번으로 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&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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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