



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

Notice of Decision

Decision Date: March 19, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025573

[REDACTED]

Dear [REDACTED],

On February 13, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's December 10, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 19, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025573



Issue

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

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

Procedural History

On December 9, 2017, NY State of Health (NYSOH) received your application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were not eligible for financial assistance but that you could enroll into a qualified health plan at full cost.

Also on December 9, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your ineligibility for financial assistance.

On December 10, 2017, NYSOH issued an eligibility determination notice based on the information contained in the December 9, 2017 application, stating you were eligible to purchase a qualified health plan at full cost beginning January 1, 2018. You were not eligible for a tax credit and income based cost-sharing reductions because there was information missing about your taxes. One of those reasons was that you are married and you said you would be filing taxes separately from your spouse.

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On February 13, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open until February 27, 2018 to allow you time to submit a copy of your tax return. After your hearing on February 13, 2018, the requested documentation was uploaded to your NYSOH account. The record is now closed.

Findings of Fact

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

- 1) Your December 9, 2017 application states that you have a marital status of "separated" and that you will file your taxes with a tax filing status of "single". That application also states that you will claim your child as a dependent.
- 2) You testified that you will be filing your 2018 income tax return with a tax filing status of head of household.
- 3) You testified that you are currently married and that you have not filed for divorce.
- 4) You testified that you have been legally separated from your wife for approximately seven to eight years.
- 5) You testified that you have one child who is currently [REDACTED]. He lives with you for at least six months out of the year.
- 6) You testified that you filed as Head of Household in the 2017 tax year and claimed your child as a dependent.
- 7) You submitted a copy of your 2017 income tax return. That tax return indicates that you file as Head of Household (with qualifying person) and that you claim your son as a dependent.
- 8) You testified that you will be claiming your child as a dependent on your 2018 tax return.
- 9) You testified that your expected 2018 income is between \$33,000.00 and \$35,000.00.
- 10) Your application states that you live in [REDACTED].

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)).

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Legal Analysis

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

On December 9, 2017 you submitted an application stating in part that you have a marital status of “separated” and that you will file your taxes with a tax filing status of “single”.

In the eligibility determination notice issued on December 10, 2017, NYSOH denied an APTC to you because you indicated that you were married but 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. You confirmed that you do not plan to file a joint federal income tax return with your spouse for the 2018 tax year.

Therefore, NYSOH was correct when it found that you were not eligible for APTC due to your tax filing status as stated 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.

Since NYSOH correctly determined that you are not eligible for APTC or cost-sharing reductions based on the information contained in your application, the December 10, 2017 notice of eligibility determination is AFFIRMED.

However, 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.

You credibly testified during the hearing that: (1) you expect to claim your one child as a dependent and that child’s primary home is with you, (2) your spouse has not been a member of the household for at least seven years, and you expect that to remain the case for 2018. The record also indicates that you have been living separately from your spouse for a number of years, which suggests that you are financially independent of her, and would therefore pay more than one half of the cost of keeping up your home for 2018. Furthermore, you testified and provided evidence that you have filed your tax return as Head of Household with qualifying individual in past tax years and that you intend to do so for the

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current tax year. Therefore, there is evidence in the record to support a finding that you are a head of household with a qualifying dependent and so qualify to be treated as “not married” for the purposes of obtaining APTC.

You may elect to change your tax filing status in your NYSOH application for health insurance to “Head of Household,” provided that you meet the above-listed criteria. As soon as any change is made, NYSOH will then redetermine your eligibility and issue a new notice.

However, BE AWARE that the IRS is the final decision-maker on how you are allowed to file your taxes. If your testimony was incorrect, it may result in you NOT being eligible to file as “Head of Household” for the 2018 tax year. If this is the case, you should not be treated as “not married” for purposes of obtaining APTC through NYSOH.

Decision

The December 10, 2017 eligibility determination is AFFIRMED.

If you do choose to modify your application, the case will be returned to NYSOH for a redetermination of eligibility using the information contained in your application.

Effective Date of this Decision: March 19, 2018

How this Decision Affects Your Eligibility

NYSOH properly determined that you do not qualify for financial assistance based on the information contained in your application. You remain eligible to purchase a qualified health plan at full cost.

If you choose to update your NYSOH application to reflect a tax status of head of household with qualifying individual, NYSOH will redetermine your eligibility accordingly.

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.

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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

Summary

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The December 10, 2017 eligibility determination is AFFIRMED.

If you do choose to modify your application, the case will be returned to NYSOH for a redetermination of eligibility using the information contained in your application.

NYSOH properly determined that you do not qualify for financial assistance based on the information contained in your application. You remain eligible to purchase a qualified health plan at full cost.

If you choose to update your NYSOH application to reflect a tax status of head of household with qualifying individual, NYSOH will redetermine your eligibility accordingly.

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&btumi 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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