



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

Notice of Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025675

[REDACTED]

Dear [REDACTED],

On March 1, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's October 6, 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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Decision

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NY State of Health Account ID: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Was your appeal of NY State of Health's October 6, 2017 eligibility determination notice timely?

Did NY State of Health properly determine that you were not eligible for advance payments of the premium tax credit or cost-sharing reductions, effective November 1, 2017?

Procedural History

On January 4, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you were eligible for up to \$435.00 per month in advance payments of the premium tax credit (APTC) and cost-sharing reductions if you enrolled in a silver level qualified health plan, both effective February 1, 2017.

Also on January 4, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in a qualified health plan with a plan enrollment start date of February 1, 2017 and that your APTC would be applied to your monthly premium as of February 1, 2017.

On October 5, 2017, you contacted NYSOH and updated your application for financial assistance.

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 October 6, 2017, NYSOH issued a notice of eligibility determination, based on the October 5, 2017 application, stating that you were newly conditionally eligible to purchase a qualified health plan at full cost beginning November 1, 2017 and that you no longer qualified for APTC and cost-sharing reductions as of October 31, 2017. This notice stated that you did not qualify for APTC because your application stated that you were married but not filing taxes jointly with your spouse. It also stated that you did not qualify for cost-sharing reductions because you were not eligible for APTC. This notice directed you to provide proof of your citizenship status and social security number by January 3, 2018.

On December 12, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not found eligible for APTC for November 2017 and December 2017.

On March 1, 2017, 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 March 15, 2018 to allow you to submit your 2017 1040 form.

As of March 16, 2018, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

Findings of Fact

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

- 1) You testified that on October 5, 2017 you contacted NYSOH to update your marital status and last name.
- 2) You testified that you got married on [REDACTED].
- 3) You testified that you have not yet filed your tax return for 2017, however, you have completed your 2017 1040. You went on to testify that you will file your 2017 tax return with a tax filing status of married filing jointly.
- 4) You testified that when you updated your application to reflect that you were now married, you were told that you would only have to add your spouse's information if you were filing your tax return jointly with your spouse. You went on to state that the NYSOH representative never informed you that you were no longer eligible for APTC because you had not added your spouse to your NYSOH account.
- 5) You testified that you learned that you had lost your APTC in late November 2017 or early December 2017 when you receive a bill for your

premium and realized that you were being charged a higher premium amount.

- 6) You testified that your annual income from 2017 was approximately \$23,000.00 and that you were not sure what your spouse's annual income for 2017 was. You testified that you believe you will claim a deduction for student loan interest on your 2017 tax return. You further testified that you and your spouse will not claim any dependents on your 2017 tax return.
- 7) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 8) On October 5, 2017, you placed a phone call to NYSOH. A review of the recording of this phone call reflects that you were calling to report that you had gotten married and that you had changed your name. The NYSOH representative indicated that if you were filing your 2017 tax return jointly with your spouse, you would need to add your spouse's information to your account, even if he was not applying for health insurance, but that if you were filing your 2017 tax return as single, you would not need to include your spouse's information.

You indicated that you were not sure if you would be filing your 2017 tax return as single or jointly with your spouse. Initially, you requested to add your spouse to your account, however, you did not know what your spouse's income for 2017 would be, so you requested to remove him from your application and indicate that you would file your 2017 tax return as single.

After completing the remainder of your application, the NYSOH representative advised you that you were no longer eligible for financial assistance with health insurance. You inquired as to why you were no longer eligible for financial assistance. The NYSOH representative responded that you needed to submit proof of your social security number and citizenship status because you had changed your name. The NYSOH representative then informed you that you had the same plan and would have to pay the same premium amount.

- 9) The record reflects that you next contacted NYSOH on December 7, 2017 to inquire as to why your premium amount had increased and why you were no longer eligible. A review of the recording of this phone call reflects that during this call, the NYSOH representative advised you that you would need to reconcile your APTC on your 2017 tax return.
- 10) Your NYSOH account reflects that on December 12, 2017, you spoke to NYSOH's Account Review Unit and filed a formal appeal.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

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)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's October 6, 2017 eligibility determination notice was timely.

On October 6, 2017, NYSOH issued a notice of eligibility determination stating that you were newly conditionally eligible to purchase a qualified health plan at full cost beginning November 1, 2017 and that you no longer qualified for APTC and cost-sharing reductions as of October 31, 2017.

The record reflects that you first contacted NYSOH to file a formal appeal regarding the October 6, 2017 eligibility determination notice on December 12, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your ineligibility for APTC, an appeal should have been filed by December 5, 2017.

Although your appeal was untimely on its face, the record reflects that on October 5, 2017 when you updated your application for financial assistance, the NYSOH representative provided you with misinformation, in that, although she stated that you were ineligible for financial assistance, she also stated that your premium would remain the same.

Thereafter, on December 12, 2017 you filed a formal appeal request.

Had you been provided correct information by the NYSOH representative on October 5, 2017, you could have filed an appeal within the 60-day time frame. Therefore, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue is whether NYSOH properly determined that you were not eligible for APTC or cost-sharing reductions, effective November 1, 2017.

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.

On October 5, 2017, you contacted NYSOH and updated your marital status and last name. The record reflects that at that time, you were not sure if you would file your 2017 tax return as married filing jointly or married filing single. As you did not know your spouse’s income, you elected not to add your spouse to your application and selected married filing single as your tax status.

In the eligibility determination notice issued on October 6, 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.

As NYSOH based its October 6, 2017 eligibility determination on the information you provided, NYSOH was correct when it found you were ineligible for APTC due to your tax filing status as stated in your October 5, 2017 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 were not eligible for APTC or cost-sharing reductions, based on the information you provided on October 5, 2017, the October 6, 2017 eligibility determination notice is AFFIRMED.

However, you testified that you plan on filing your 2017 tax return as married filing jointly.

As we are now in the 2018 enrollment period, the NYSOH Appeals Unit cannot direct NYSOH to redetermine your eligibility for 2018. As you have used APTC to help pay health insurance premiums in 2017, you must file a federal tax return.

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).

Your APTC, regardless of whether correctly or incorrectly determined by NYSOH, will be reconciled on your 2017 tax return by the IRS.

Decision

The October 6, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 22, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility for financial assistance.

You must reconcile your APTC on your 2017 Federal tax return.

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
- By mail at:

Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061

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- 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 October 6, 2017 eligibility determination notice is AFFIRMED.

This decision does not change your eligibility for financial assistance.

You must reconcile your APTC on your 2017 Federal tax return.

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 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.

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