



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

Notice of Decision

Decision Date: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025714

[REDACTED]

Dear [REDACTED],

On February 14, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 14, 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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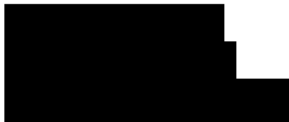


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025714



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 ineligible for advance payments of the premium tax credit (APTC), effective January 1, 2018?

Procedural History

According to your NYSOH account, you were found eligible for and enrolled in a silver-level qualified health plan with a monthly premium of \$285.26 after an APTC of \$224.00 was applied, effective April 1, 2016. Subsequently, you added your oldest child (child) to your health plan and you were both found eligible for and enrolled in a silver-level health plan with a monthly premium of \$361.16 after an APTC of \$554.00 was applied, effective June 1, 2016.

On December 13, 2017, NYSOH issued a preliminary eligibility determination stating that you were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2018.

Also on December 13, 2017, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination insofar as you were no longer eligible for APTC, effective January 1, 2018.

On December 14, 2017, NYSOH issued an eligibility determination notice, consistent with the December 13, 2017 preliminary eligibility determination, stating that you were newly eligible to purchase a qualified health plan at full

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cost. This notice stated that you were no longer eligible to receive APTC or cost-sharing reductions because APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH were unable to tell if a federal tax return was filed for that year.

On December 29, 2017, NYSOH issued an eligibility determination notice stating that you and your child were eligible for an advance payment of the premium tax credit for a limited time, effective January 1, 2018. The notice stated that you and your child have been granted Aid to Continue until a decision is made on your appeal.

Also on December 29, 2017, a plan enrollment notice was issued confirming your and your child's enrollment in the silver-level qualified health plan with a premium of \$428.15 after APTC of \$714.00 had been applied, effective January 1, 2018.

On January 9, 2018, you submitted a copy of your 2016 IRS Transcript (see Document [REDACTED]).

On February 14, 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 to March 16, 2018, for you to submit supporting documentation.

On March 6, 2018, you submitted a letter, dated February 19, 2018, from your accountant and a copy of your 2016 Form 8962 – Premium Tax Credit. These documents were made part of the record as “Appellant's Exhibit A.” The record was closed that day.

Findings of Fact

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

- 1) According to your NYSOH account and testimony, you expect to file your taxes using a tax filing status of single and will claim two dependents on that return.
- 2) According to your NYSOH account, your annual household income is listed as \$45,777.00, consisting of your employment income. You testified that this amount was correct.
- 3) Your NYSOH account indicates that, on December 13, 2017, you renewed your application for financial assistance and were found no longer eligible for APTC as of January 1, 2018. This was because APTC was 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 had been filed for that year.

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- 4) According to your NYSOH and testimony, when you updated your application on December 13, 2017, your child was not included. You testified this was a mistake and that your child should be on your application.
 - 5) According to your NYSOH account, APTC in the amount of \$224.00 per month was paid on your behalf in April 2016 and May 2016, and in the amount of \$554.00 was paid on your and your child's behalf for June 2016 through December 2016, as stated in the Form 1095-A for 2016 issued by NYSOH on January 22, 2017 (see Documents [REDACTED]).
 - 6) You testified that you are seeking reinstatement of your and your child's APTC as of January 1, 2018.
 - 7) You testified that your accountant filed your tax return for 2016 on time and reconciled your APTC on that tax return.
 - 8) You submitted a 2016 IRS federal transcript which shows that you filed your income tax return on October 6, 2017, but did not report your 2016 APTC on that return (see Document [REDACTED]).
 - 9) According to a letter from your accountant, dated February 19, 2018, you filed your 2016 federal income tax return on October 6, 2017, but that he received notice claiming that the Form 8962 – Premium Tax Credit (which is used to reconcile your APTC) was omitted from that return. He further stated that you never received your 2016 1095-A and that the filing of the Form 8962 is now complete. A copy of your 2016 Form 8962 was also attached (see Appellant's Exhibit A, p. 2, 4). These documents indicate that you eventually reconciled your 2016 APTC, but do not show the date the updated filing took place.
- 8) According to your NYSOH account, you reside in Ulster County, New York.

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credits - Eligibility

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

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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 QHP 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 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)).

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 were made on behalf of the tax filer or their spouse, and the tax filer or their spouse did not comply with the requirement to file an income tax return for that year and reconcile the APTC for that period (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 and your child were ineligible for APTC, effective January 1, 2018.

The record reflects that you were enrolled in a silver-level qualified health plan beginning April 1, 2016 through May 31, 2016, at a monthly premium of \$285.26, after APTC of \$224.00 was applied each month. Subsequently, you added your child to your health plan and you were both enrolled in a silver-level qualified health plan beginning June 1, 2016, at a monthly premium of \$361.16, after giving effect to APTC of \$554.00 per month.

As of January 1, 2017, you were again found eligible to receive APTC for the calendar year. Near the end of each year, NYSOH is required to conduct annual

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eligibility redetermination 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.

However, NYSOH may not determine a tax filer eligible for APTC if APTC was made on behalf of the tax filer, and the tax filer did not comply with the requirement to file an income tax return for that year and reconcile APTC for that period.

On December 14, 2017, NYSOH issued an eligibility determination notice, based on your December 13, 2017 application, stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018, as NYSOH had received information that APTC had been paid on your behalf for a year in which you did not file a tax return.

This finding was a result of information NYSOH received on December 13, 2017, that you had filed a tax return for 2016, but did not reconcile APTC on that return. However, during the hearing, you testified that this information was erroneous and that your accountant had filed your 2016 federal income tax return on time and that your APTC was reconciled in that return. These statements were inconsistent with your submitted 2016 IRS Transcript, which shows that you filed your income tax return on October 6, 2017, but did not report your 2016 APTC on that return (see Document [REDACTED]). Therefore, the record was kept open to March 16, 2018, to allow you time to provide your updated IRS Transcript for the 2016 income tax year showing that APTC was reconciled therein.

On March 6, 2018, you submitted a letter from your accountant, dated February 19, 2018, stating you filed your 2016 federal income tax return on October 6, 2017, but that he received notice claiming that the Form 8962 – Premium Tax Credit (which is used to reconcile your APTC) was omitted from that return. He further stated that you never received your 2016 1095-A and that the filing of the Form 8962 is now complete. A copy of your 2016 Form 8962 was also attached (see Appellant's Exhibit A, p. 2, 4). These documents indicate that you eventually reconciled your 2016 APTC, but do not show the date the updated filing took place.

As such, there is no documentary evidence to support that your APTC was reconciled on your 2016 tax return as of the date of your application.

Since federal and state data sources showed that you had not reconciled APTC on your 2016 federal income tax return as of the date of your application, NYSOH properly determined that you were not eligible for APTC through NYSOH as of January 1, 2018.

Therefore, NYSOH's December 14, 2017 eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost as of January 2018, is AFFIRMED.

However, since your submitted documentation does indicate that your 2016 APTC was reconciled as of the date of this Decision and you credibly testified that your child should be included in your application, your case is RETURNED to NYSOH to redetermine your and your child's eligibility for financial assistance in 2018 based on a modified adjusted gross annual household income of \$47,777.00 per year, and a household size of three, for a primary subscriber and one dependent residing in Ulster County, New York.

Decision

The December 14, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your and your child's eligibility for financial assistance in 2018 based on a modified adjusted gross annual household income of \$47,777.00 per year, and a household size of three, for a primary subscriber and one dependent residing in Ulster County, New York.

NYSOH is directed to notify you of its redetermination and what further action may be required on your part, if applicable.

Effective Date of this Decision: March 12, 2018

How this Decision Affects You and your spouse r Eligibility

This is not a final determination of your and your child's eligibility for financial assistance in 2018.

Now that there is proof of APTC being reconciled on your 2016 tax return, your case is being sent back to NYSOH to redetermine your and your child's eligibility for financial assistance in 2018 based on the information noted above.

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.

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).

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 14, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your and your child's eligibility for financial assistance in 2018 based on a modified adjusted gross annual household income of \$47,777.00 per year, and a household size of three, for a primary subscriber and one dependent residing in Ulster County, New York.

NYSOH is directed to notify you of its redetermination and what further action may be required on your part, if applicable.

Your case is RETURNED to NYSOH to redetermine your and your child's eligibility for financial assistance in 2018 based on a modified adjusted gross annual household income of \$47,777.00 per year, and a household size of three, for a primary subscriber and one dependent residing in Ulster County, New York.

NYSOH is directed to notify you of its redetermination and what further action may be required on your part, if applicable.

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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