



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

Notice of Decision

Decision Date: March 14, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025792

[REDACTED]

Dear [REDACTED],

On February 28, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 12, 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 Date: March 14, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025792



Issue

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

Did New York State of Health (NYSOH) properly determine that you and your spouse were eligible to purchase a qualified health plan only at full cost through NYSOH, and ineligible for advanced payments of the premium tax credit (APTC) or cost-sharing reductions, effective January 1, 2018?

Procedural History

On October 28, 2017, NYSOH issued a renewal notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2018. The notice stated that you and your spouse no longer qualified for APTC as of December 31, 2017 because federal and state sources showed that your income was over \$64,960.00.

On November 18, 2017, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in a silver-level qualified health plan (QHP) with a monthly premium of \$1,008.65, effective January 1, 2018.

On December 11, 2017, you submitted an updated application for financial assistance attesting to an annual household income of \$34,000.00.

On December 12, 2017, NYSOH issued eligibility determination notice stating that you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2018. That notice also stated that you and your spouse were not eligible for APTC and CSR because you said you would not be filing a tax return

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or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

On December 14, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as you and your spouse were found not eligible for financial assistance in 2018.

On February 28, 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 until March 7, 2018 to allow you to submit supporting documents.

As of March 7, 2018, the NYSOH's Appeals Unit did not receive any additional documents from you and none were viewable in your NYSOH account. Therefore, the record was closed the same day and this Decision is based on the record as it was developed at the hearing.

Findings of Fact

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

- 1) You testified, and your NYSOH application reflects, that you are applying for health insurance for you and your spouse.
- 2) You testified, and your NYSOH application reflects, that you expect to file a 2018 federal income tax return with the tax status of married filing jointly.
- 3) On December 12, 2017, NYSOH issued a notice stating that you and your spouse 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 is unable to tell if a federal tax return was filed for that year.
- 4) Your NYSOH account reflects, and you testified, that you received APTC toward the cost of your QHP in 2016.
- 5) You testified that you filed your 2016 federal income tax return on April 11, 2017.
- 6) You testified that your 2016 tax return included your Form 8962 but that the IRS advised you that the IRS did not receive the Form 8962 and did not reconcile the amount of APTC you received in 2016.
- 7) You testified that you contacted the IRS and pursuant to their instructions re-submitted your Form 8962 and related tax documentation on December 27, 2017.

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- 8) You testified that as of the date of the hearing (February 28, 2018) that you had not received a response from the IRS.
- 9) You testified that by March 7, 2018 you would submit a transcript of your 2016 tax return showing that you reconciled the amount of APTC you and your spouse received in 2016.
- 10) You testified that you are seeking financial assistance through this appeal.

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

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)).

An applicant is required to attest to the household's projected annual income for purposes of determining eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). 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 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)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

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NYSOH may not authorize ongoing APTC when it was paid on behalf of the tax filer or the tax filer's spouse for a previous year, and that tax filer and/or spouse did not file a tax return for that year properly reconciling the receipt of APTC with final eligibility (45 CFR § 155.305(f)(4)).

Upon making an eligibility redetermination, NYSOH must notify the applicant, and it must implement any decreases in eligibility to receive APTC effective as of the first day of the month following the date of the notice if the change occurs on or before the 15th of the month; otherwise, the change becomes effective the first day of the second following month (45 CFR § 155.310(f), 45 CFR § 155.330(f)(1)(i) and (f)(3)). Increases become effective the first day of the following month, regardless of when during the month the change occurs (*id.*).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH and ineligible for APTC or cost-sharing reductions, effective January 1, 2018.

On December 12, 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 reconciled the receipt of APTC in your tax return.

If NYSOH is unable to obtain information that a prior year's tax return has been filed and the amount of APTC reconciled, NYSOH may not determine a tax filer eligible for APTC, if APTC was paid on that tax filer's behalf in a previous year.

You testified that you filed your 2016 federal income tax return on April 11, 2017. You testified that your 2016 tax return included your Form 8962 but that the IRS subsequently advised you that the IRS did not receive the Form 8962 and did not reconcile the amount of APTC you received in 2016 on your tax return.

You testified that you contacted the IRS and pursuant to their instructions re-submitted your Form 8962 and related tax documentation on December 27, 2017. You testified that as of the date of the hearing (February 28, 2018) that you had not received a response from the IRS.

At the hearing, you testified that you would contact the IRS and submit a transcript of your 2016 tax return showing that you reconciled the amount of APTC you and your spouse received in 2016 by March 7, 2018. As of March 7, 2018, the NYSOH's Appeals Unit did not receive any additional documents from you and none were viewable in your NYSOH account.

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Therefore, based on the only available documentation, the Appeals Unit finds that at the time of the December 11, 2017 application you had not reconciled the amount of APTC you and your spouse received and that the data sources NYSOH had relied on to make its determination were correct.

Since the December 12, 2017 eligibility determination notice is supported by the record, it must be AFFIRMED.

Decision

The December 12, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 14, 2018

How this Decision Affects Your Eligibility

This decision will does not change you and your spouse's current eligibility.

You and your spouse are eligible for a full cost qualified health plan.

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 December 12, 2017 eligibility determination notice is AFFIRMED.

This decision will does not change you and your spouse's current eligibility.

You and your spouse are eligible for a full cost qualified health plan.

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 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.

אײַדיש (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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