



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

Notice of Decision

Decision Date: April 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025863

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

On March 1, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health’s December 16, 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).

This page intentionally left blank.



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

Decision

Decision Date: April 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025863

[REDACTED]
[REDACTED]
[REDACTED]

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 platinum-level health plan with a monthly premium of \$524.76 after an APTC of \$226.00 was applied, effective January 1, 2018.

On December 15, 2017, NYSOH issued a preliminary eligibility determination stating that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2018.

Also on December 15, 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 16, 2017, NYSOH issued an eligibility determination notice, consistent with the December 15, 2017 preliminary eligibility determination, stating that you were eligible to purchase a qualified health plan at full 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

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 premium costs in a prior year and NYSOH were unable to tell if a federal tax return was filed for that year.

On January 23, 2018, you submitted a copy of your 2016 federal income tax return, a completed Form 8962 – Premium Tax Credit and an electronic statement of filing (see Documents [REDACTED])

On March 1, 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 for thirty days to allow you time to submit documentation. Specifically, the Hearing Officer requested that you submit the IRS transcripts for your 2016 and 2017 federal income tax returns.

On March 12, 2018, you uploaded the IRS transcripts for your 2016 federal income tax returns to your NYSOH account. This document was added to the record and marked as "Appellant's Exhibit A." As of April 1, 2018, no further documentation was received and the record is now closed.

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 no dependents on that return.
- 2) According to your NYSOH account, your annual household income is listed as \$25,200.00, consisting of your annual gross income received from a corporation. You testified this was correct.
- 3) You submitted documentation that shows you received a modified adjusted gross income of \$2,736.00 in 2016, consisting of \$3,452.00 in Foreign Dividends, \$5,623.00 in Capital Gains, and \$2,284.00 in self-employment income less Capital Losses of \$8,623.00 (see Document [REDACTED]).
- 4) These documents further reflect that there is a carryover Capital Loss for the tax year 2017 (*id*).
- 5) You did not submit your 2017 federal income tax returns.
- 6) Your NYSOH account indicates that, on December 15, 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

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 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.

- 7) According to your NYSOH account, APTC in the amount of \$226.00 per month was paid on your behalf in 2016, as stated in the Form 1095-A for 2016 issued by NYSOH on January 25, 2017 (see Document [REDACTED]).
- 8) You testified that you are seeking reinstatement of APTC as of January 1, 2018.
- 9) You testified that your accountant filed your tax return for 2016, and reconciled your APTC on that tax return. You were unsure as to when this was completed.
- 10) You submitted a 2016 IRS federal transcript which shows that you filed your income tax return on April 15, 2017, but that it was not processed until July 10, 2017 (see Appellant's Exhibit A, p. 10).
- 11) Your submitted documents further show that your 2016 Form 8962 – Premium Tax Credit (which is used to reconcile your APTC) indicates that you received \$2,712.00 in tax credits during 2016 and are due a tax credit of \$1,641.00. Your 2016 IRS Transcript and Form 1040 both show \$0.00 respectively in the appropriate section and Line 69 (see Documents [REDACTED]; and see Appellant's Exhibit A, p. 6).
- 8) According to your NYSOH account, you reside in New York County, [REDACTED].

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

Applicable Law and Regulations

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

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).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income (*id.*).

Capital Loss Deduction

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a capital loss carryover may be deductions from a taxpayer’s adjusted gross income (26 USC § 1211, 26 USC § 1212; *and see* Pub. 550).

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 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)).

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).

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 ineligible for APTC, effective January 1, 2018.

The record reflects that you were enrolled in a silver-level plan beginning January 1, 2016, at a monthly premium of \$524.76 after monthly APTC of \$226.00 was applied, effective January 1, 2016.

As of January 1, 2017, you were found eligible to receive Medicaid for the calendar year. Near the end of each year, NYSOH is required to conduct annual 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 16, 2017, NYSOH issued an eligibility determination notice, based on your December 15, 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 15, 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 and that your APTC was reconciled in that return. However, you were unsure when this occurred. These statements were inconsistent with your submitted 2016 federal income tax return, and 2016 IRS Transcript which shows that your filed income tax return was processed on July 10, 2017, but did not reconcile your 2016 APTC on that return (see Documents [REDACTED]; see *also* Appellant's Exhibit A, p. 6, p. 10).

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 16, 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, you testified that you were found eligible for Medicaid in 2017 and submitted documentation to prove that you had Capital Loss Deductions in 2016. These documents are insufficient to ascertain how much of your Capital Loss was to be included in your modified adjusted gross income for 2017 and/or is expected to be included for 2018. As such, the Hearing Officer held the record open to allow you time to submit your 2017 federal income tax return. You did not submit this return or any other proof of your current income. Therefore, these factors are not considered and no further action is required at this time.

Decision

The December 16, 2017 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: April 5, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility for financial assistance in 2018.

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.

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).

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

The December 16, 2017 eligibility determination notice is **AFFIRMED**.

This decision does not change your eligibility for financial assistance in 2018.

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:

[REDACTED]
[REDACTED]
[REDACTED]

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।

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 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.

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).