



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

Notice of Decision

Decision Date: March 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025873

[REDACTED]

Dear [REDACTED],

On March 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 13, 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
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Decision

Decision Date: March 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025873

[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 and your spouse were eligible to purchase a qualified health plan (QHP) at full cost and ineligible for advance payments of premium tax credit (APTC) effective January 1, 2018?

Procedural History

On December 13, 2017, NYSOH issued two notices:

- (1) An eligibility determination notice stating, in relevant part, that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018. The notice stated that you were not eligible to receive APTC or cost-sharing reductions (CSR) because APTC was paid to your health insurance company in a prior year and NYSOH was unable to ascertain if a federal tax return was filed for that year;
- (2) A plan enrollment notice confirming that as of December 12, 2017, you and your spouse were enrolled in a QHP at full cost with an enrollment start date of January 1, 2018.

Also on December 13, 2017, you uploaded documentation to your NYSOH account (see Document [REDACTED]).

On December 15, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal because you and your spouse were determined ineligible for APTC.

On January 3, 2018, your NYSOH account was systematically updated.

On January 4, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were determined eligible for APTC with CSR for a limited time, effective January 1, 2018. You had been granted Aid to Continue until a decision is made on your appeal.

On March 2, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was left open until March 16, 2018, to allow you to submit a Record of Account Transcript of your 2016 federal income tax return.

On March 10, 2018, you uploaded one page of documentation to your NYSOH account (see Document [REDACTED]). That documentation was made part of the record as "Appellant Exhibit A."

No additional documentation was submitted to NYSOH's Appeals Unit by March 16, 2018. The record is now complete and closed.

Findings of Fact

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

- 1) According to your NYSOH account and testimony, you are married.
- 2) According to your NYSOH account and testimony, you expect to file your 2018 federal income return jointly with your spouse.
- 3) According to your NYSOH account and testimony, you and your spouse were enrolled in a QHP and received APTC in 2016.
- 4) You testified that you filed your 2016 federal income tax return in March 2017, with the assistance of an accountant.
- 5) You testified that the accountant did not indicate that you and your spouse were enrolled in health insurance coverage through NYSOH and did not attach a 2016 Form 8962 to your tax return.
- 6) On December 13, 2017, you submitted a 2016 Form 8962 Premium Tax Credit (PTC) to NYSOH. Lines 3 and 29 on that form indicate that you and your spouse received \$846.00 in excess APTC based on your household income of \$60,907.00 (see Document [REDACTED]).

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- 7) You testified that, in January 2018, your accountant amended your tax return and submitted a 2016 Form 8962 to the IRS.
- 8) On March 10, 2018, you submitted your 2016 Form 1040X Amended U.S. Individual Income Tax Return. Line 5 of the form indicates that your adjusted gross income was \$72,242.00. Line 11 of the form reflects that your tax liability increased by \$2,357.00 (see Appellant Exhibit A).

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

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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, and not eligible for APTC, effective January 1, 2018.

On December 13, 2017, you submitted an application for financial assistance through NYSOH. On the following day, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP at full cost through and ineligible to receive APTC. The notice stated that APTC was paid to your health insurance company in a prior year and NYSOH was unable to ascertain if a federal tax return was filed for that year.

Individuals who apply APTC to their health insurance premiums must file a federal income tax return and reconcile their reported expected household income, as stated in the NYSOH application, with their actual household income on their federal income tax return. The federal regulations provide that NYSOH may not determine a tax filer eligible for APTC if APTC was paid on the tax filer's behalf in a previous year, and the APTC was not reconciled on their federal income tax return.

On December 13, 2017, NYSOH was unable to confirm through federal and state data sources that you and your spouse filed a federal income tax return and reconciled the APTC that were received during 2016.

You testified that you received APTC in 2016 and filed a 2016 federal income tax return in March 2017, with the assistance of an accountant. You further testified that the accountant did not indicate that you and your spouse were enrolled in health insurance coverage through NYSOH and did not attach a 2016 Form 8962 to your tax return. Lastly, you testified that your accountant amended your tax return in January 2018, and submitted the 2016 Form 8962 to the IRS.

The record reflects that, at the time of your December 13, 2017 application, the APTC you and your spouse received during 2016 had not been reconciled on your 2016 federal income tax return. Therefore, the December 14, 2017 eligibility determination is AFFIRMED.

On December 13, 2017, you submitted a 2016 Form 8962 to NYSOH. Lines 3 and 29 of the form indicate that you received \$846.00 in excess APTC based on your household income of \$60,907.00 (see Document [REDACTED]). Again, you testified that in January 2018, your accountant amended your tax return and submitted a 2016 Form 8962 to the IRS. The NYSOH's Appeals Unit left the record open until March 16, 2018, to allow you to submit your Record of Account Transcript of your 2016 federal income tax return.

On March 10, 2018, you submitted your 2016 Form 1040X Amended U.S. Individual Income Tax Return. The form reflects that your adjusted gross income

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was \$72,242.00, not \$60,907.00, and your tax liability had increased by \$2,357.00 (see Appellant Exhibit A). No additional documentation was submitted to NYSOH's Appeals Unit by March 16, 2018.

The submission of the copies of your 2016 Form 8962, before your return was amended, and your 2016 Form 1040X is not sufficient evidence to demonstrate that the APTC received in 2016 was reconciled on your federal income tax return. The Appeals Unit requested that you submit your Record of Account Transcript of your 2016 federal income tax return to establish that the IRS received and processed your 2016 Form 8962, but you failed to do so.

Therefore, the record does not contain sufficient evidence to corroborate your testimony that the APTC received during 2016 was reconciled on your federal income tax return. Therefore, your case will not be returned to NYSOH to recalculate your household's eligibility for financial assistance.

Decision

The December 14, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 26, 2018

How this Decision Affects Your Eligibility

This decision does not change your and your spouse's eligibility for financial assistance or enrollment in health insurance coverage through NYSOH.

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

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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 14, 2017 eligibility determination notice is AFFIRMED.

This decision does not change your and your spouse's eligibility for financial assistance or enrollment in health insurance coverage through NYSOH.

Legal Authority

We are issuing this determination in accordance with 45 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).

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 مجانًا.

বাংলা (Bengali)

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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।

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 srε wo, frε 1-855-355-5777. ye&εtumi 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.

אַײַדיש (Yiddish)

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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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