



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: AP000000027071

[REDACTED]

Dear [REDACTED],

On March 16, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 11, 2018 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 NY State of Health number 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

Decision Date: March 26, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027071



Issue

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

Did NYSOH properly determine that you and your child were ineligible to receive advance payments of the premium tax credit (APTC), effective February 1, 2018?

Procedural History

On January 10, 2018, you submitted an application for financial assistance through NYSOH. Based on this application, NYSOH rendered a preliminary eligibility determination stating that you and your child were not eligible for financial assistance.

Also on January 10, 2018, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as you and your child were determined ineligible for APTC through NYSOH.

On January 11, 2018, NYSOH issued an eligibility determination notice stating, in relevant parts, that you and your child were eligible to purchase a QHP at full cost and ineligible for APTC, effective February 1, 2018.

On March 16, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

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Findings of Fact

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

- 1) According to your NYSOH account and testimony, you are applying for health insurance for yourself and your [REDACTED] child.
- 2) You testified that you want your household to be determined eligible for financial assistance through NYSOH.
- 3) According to your NYSOH account and testimony, you expect to file a 2018 federal income tax return with the tax status of Head of Household (with qualifying individual), and expect to claim your child as a dependent on that tax return.
- 4) According to your January 10, 2018 application, you attested that you expect your 2018 yearly income to be \$66,690.34.
- 5) You testified that you are employed at [REDACTED] and that is your only source of income.
- 6) You testified that you are issued a base salary of \$1,209.00 every two weeks, and the remainder of your income is based on commission. Since sales for 2018 have been lower, you expect your 2018 income to be approximately \$60,000.00.
- 7) According to your NYSOH account, you and your child reside in [REDACTED], New York.
- 8) You testified that your child is a college student, and you expect to pay for some of their college tuition and fees.

Conflicting evidence, if any, was 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)).

“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)).

Subject to income limitations, tuition and fees for higher education paid by the taxpayer to a qualified educational institution can be deducted from their gross income in an amount up to \$4,000.00. The allowable deduction does not apply to taxable years beginning after December 31, 2017 (26 USC § 222(b), (e)).

On February 9, 2018, the Bipartisan Budget Act of 2018 amended the Internal Revenue Code of 1986 to extend certain expiring provisions, including the Above the Line Deduction for Qualified Tuition and Related Expenses. The Qualified Tuition and Related Expense Deduction was extended through December 31, 2017 (H.R. 1892 - 115th Congress (2017-2018), Public Law No. 115-123).

Household Composition

For APTC and CSR, the household size equals the number of individuals for whom the taxpayers are allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are available to a person who: (1) is eligible to enroll in a QHP; (2) expects to have a household income greater or equal to 100% but no more than 400% of the applicable federal poverty level (FPL), (3) 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 (4) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f)(1)).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2017 FPL, which is \$16,240.00 for a two-person household (82 Federal Register 8831).

People who use the 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).

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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).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your child were ineligible to receive APTC.

One of the requirements for an individual to be eligible to receive APTC is that their annual household income must fall between 100% and 400% of the applicable FPL.

Based on the application that was submitted on January 10, 2018, you attested to an expected annual household income of \$66,690.34 and the January 11, 2018 eligibility determination notice is based upon that information.

For an individual who expects to file a federal income tax return, the household equals the taxpayers and the number of individuals for whom the taxpayer is claiming as a dependent.

You attested that you expect to file a 2018 federal income tax return with the tax status of Head of Household (with qualifying individual), and expected to claim your child as a dependent on that return. Therefore, you and your child were in a two-person household.

An annual income of \$66,690.34 is 410.65% of the 2017 FPL for a two-person household. Since 410.65% of the FPL, is above the income threshold to be

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considered for APTC, NYSOH correctly determined that you and your child were ineligible for APTC.

Therefore, the January 11, 2018 eligibility determination is AFFIRMED.

You testified that you are employed at [REDACTED] and that is your only source of income. Further, you are issued a base salary of \$1,209.00 every two weeks, and the remainder of your income is based on commission. Since sales for 2018 have been lower, you expect your 2018 income to be approximately \$60,000.00.

You testified that your child is a college student, and you expect to pay for some of their college tuition and fees. As of the date of your hearing, the tuition and fees deduction has not been extended beyond the taxable year that ended on December 31, 2017.

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return and reconcile any differences between the income reported to NYSOH and the income reflected on their federal income tax return. If you received less tax credit than you were entitled to or none at all when you were entitled to tax credits this year, you may receive an income tax refund.

Based on the foregoing, your and your child's case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a two-person household, for a primary subscriber with a dependent residing in [REDACTED], New York, with a 2018 expected income of \$60,0000.

Decision

The January 11, 2018 eligibility determination notice is AFFIRMED.

Your and your child's case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a two-person household, for a primary subscriber and dependent residing in Kings County, New York, with a 2018 expected income of \$60,0000.

Effective Date of this Decision: March 26, 2018

How this Decision Affects Your Eligibility

This decision does not change your or your child's eligibility for or enrollment in health insurance coverage through NYSOH.

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Your case has been returned to NYSOH to recalculate your household's eligibility for financial assistance based on the parameters 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.

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:

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- 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 January 11, 2018 eligibility determination notice is **AFFIRMED**.

Your and your child's case is **RETURNED** to NYSOH to recalculate your eligibility for financial assistance based on a two-person household, for a primary subscriber and dependent residing in Kings County, New York, with a 2018 expected income of \$60,0000.

This decision does not change your or your child's eligibility for or enrollment in health insurance coverage through NYSOH.

Your case has been returned to NYSOH to recalculate your household's eligibility for financial assistance based on the parameters above.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545(a).

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. y&b&tumi 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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