



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

Notice of Decision

Decision Date: April 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027101

[REDACTED]
[REDACTED]
[REDACTED]

On March 28, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's November 29, 2017 and January 12, 2018 eligibility determination notices.

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
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Decision

Decision Date: April 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027101



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 eligible to purchase a qualified health plan at full cost through NYSOH and ineligible for advance payments of the premium tax credit (APTC) or cost-sharing reductions, beginning January 1, 2018?

Procedural History

On November 28, 2017, you updated your application for financial assistance through NYSOH.

On November 29, 2017, NYSOH issued an eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH was missing information about your taxes. This could be because you told NYSOH you do not plan on filing a federal tax return, you are married and you will file taxes separately from your spouse, or APTC was paid to your health insurance company in prior year and NYSOH cannot tell if a federal tax return was filed for that year.

On December 7, 2017, you submitted a copy of your IRS Tax Transcript for the 2016 tax year.

On January 11, 2018, you updated your application for financial assistance through NYSOH.

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That day, a preliminary eligibility determination was prepared stating that you were eligible to purchase a qualified health plan at full cost, effective February 1, 2018. You enrolled in a silver level, qualified health plan on that day.

Also on January 11, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as you were found ineligible for APTC for 2018.

On January 12, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost, effective February 1, 2018. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH was missing information about your taxes. This could be because you told NYSOH you do not plan on filing a federal tax return, you are married and you will file taxes separately from your spouse, or APTC was paid to your health insurance company in prior year and NYSOH cannot tell if a federal tax return was filed for that year.

Also on January 12, 2018, NYSOH issued a notice of enrollment confirming your enrollment in a silver level qualified health plan starting January 1, 2018.

On January 31, 2018, NYSOH issued a notice stating that you were eligible for APTC with cost-sharing reductions for a limited time, effective January 1, 2018. This was because you were granted Aid to Continue pending the outcome of your appeal.

On February 9, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan, effective January 1, 2018.

On March 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 up to April 27, 2018, to allow you time to submit supporting documents.

On April 3, 2018, NYSOH received your supporting documents by upload. The documents were incorporated into the record as Appellant's Exhibit #1 and the record was closed.

Findings of Fact

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

- 1) You testified that you are seeking to be found eligible for APTC for 2018.
- 2) Your NYSOH account reflects that you received APTC in 2016 and 2017.
- 3) Although APTC was paid to your health insurance company on your behalf in 2016, NYSOH could not ascertain if your APTC was reconciled for that year.

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- 4) You testified that you filed your tax return in 2017 for the 2016 tax year and that there are not any years that you were required to file a tax return that you did not file a return.
- 5) You testified that when your accountant originally filed your 2016 tax return in April 2017, he failed to reconcile your APTC and that in June 2017 he filed an amended tax return for 2016 wherein he reconciled your APTC and filed form 8962.
- 6) You testified that you contacted the IRS and confirmed that your 8962 form was received.
- 7) You testified that you paid the amount of \$166.55 to the IRS on [REDACTED].
- 8) On April 3, 2018 you uploaded the following documents:
 - a. A copy of your 2016 Premium Tax Credit Form 8962 (Document [REDACTED]). Line 29 indicates that you owed \$159.00 in excess premium tax credits received for 2016.
 - b. A copy of your IRS Record of Account for your 2016 tax return (Document [REDACTED]) which indicates that your tax return was received by the IRS on April 15, 2017. This document also indicates that an additional tax of \$159.00 was assessed on [REDACTED]. It also shows that this additional tax plus interest and penalties (\$166.55) was paid on [REDACTED].
 - c. A copy of your Amended Income Tax Return Form 1040X (Document [REDACTED]) showing that Form 8962 was included on line 15.
 - d. A copy of your 1095A and 1095B IRS Forms (Document [REDACTED]) outlining the advance premium payments and coverage you received from the Health Insurance Marketplace for 2016.
- 9) Your NYSOH account reflects that you expect to file your 2018 tax return with a tax filing status of single and that you will not claim any dependents on that tax return.

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 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)).

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 was paid on the tax filer's behalf in a previous year, and a tax return was not filed for that previous year (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)).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, 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).

(3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost through NYSOH and not eligible for APTC or cost-sharing reductions beginning January 1, 2018.

On November 28, 2017, NYSOH received your application for financial assistance for the 2018 coverage year. On November 29, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018, and ineligible to receive APTC or cost-sharing reductions. NYSOH issued a notice of eligibility on January 12, 2018 stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2018 and ineligible to receive APTC or cost-sharing reductions. Both notices found you ineligible for APTC or cost-sharing reductions because APTC was paid to your health insurance company on your behalf and NYSOH could not ascertain if your APTC was reconciled for that year.

At the time of your applications, NYSOH had not received information from the IRS that your tax return for 2016 had been properly reconciled. If NYSOH is unable to obtain information that a prior year's tax return has been filed or reconciled, NYSOH may not determine a tax filer eligible for APTC, if APTC was paid on the tax filer's behalf in a previous tax year.

On December 7, 2017, you submitted your 2016 IRS Tax Transcript which shows that on [REDACTED] you filed your 2016 tax return. That transcript as well as your testimony, confirm that at the time of your initial filing in April 2017, you had not reconciled your 2016 APTC, which is reconciled on form 8962.

However, you credibly testified that your accountant filed an amended tax return with form 8962 in June 2017. You uploaded a copy of your 2016 amended tax return which includes your completed 8962 form. Your IRS Record of Account transcript indicates that an additional tax was assessed on [REDACTED]. Your testimony, the Record of Account transcript, 1040X form, and the 8962 form all indicate that a tax liability of \$159.00 was calculated based on excess premium tax credits received. Your testimony and the transcript show that a payment of that tax liability plus interest and penalties was paid in the amount of \$166.55 on [REDACTED].

Therefore, the November 29, 2017 and January 12, 2018 eligibility determination notices are **RESCINDED**.

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 case is RETURNED to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2016 tax return reconciling your APTC, and to determine if you are eligible for financial assistance with health insurance based on the updated record. NYSOH is directed to refer to your 2016 amended tax return which includes your completed 8962 form, your IRS Record of Account transcript indicates that an additional tax was assessed on [REDACTED]

[REDACTED] Any redetermination made on the basis of this information is to be effective as if the determination was made on November 28, 2017.

Decision

The November 29, 2017 eligibility determination notice is RESCINDED.

The January 12, 2018 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2016 tax return reconciling your APTC, and to determine if you are eligible for financial assistance with health insurance based on the updated record. NYSOH is directed to refer to your 2016 amended tax return which includes your completed 8962 form, your IRS Record of Account transcript indicates that an additional tax was assessed on [REDACTED]

[REDACTED] Any redetermination made on the basis of this information is to be effective as if the determination was made on November 28, 2017.

Effective Date of this Decision: April 18, 2018

How this Decision Affects Your Eligibility

The is not a final determination of your eligibility.

Your case is being sent back to NYSOH to determine if the IRS data sources now reflect that you filed a tax return for 2016 reconciling your APTC, and to redetermine your eligibility for financial assistance as if the determination was made on November 28, 2017.

If You Disagree with this Decision (Appeal Rights)

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 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:

- 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

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- By fax: 1-855-900-5557

Summary

The November 29, 2017 eligibility determination notice is RESCINDED.

The January 12, 2018 eligibility determination notice is RESCINDED.

This is not a final determination of your eligibility.

Your case is being sent back to NYSOH to determine if the IRS data sources now reflect that you filed a tax return for 2016 reconciling your APTC, and to redetermine your eligibility for financial assistance as if the determination was made on November 28, 2017.

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 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 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.

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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