

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

Notice of Decision

Decision Date: May 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027654

[REDACTED]

Dear [REDACTED]

On April 25, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 24, 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 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

Decision Date: May 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027654



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 (QHP) only at full cost through NYSOH, and ineligible for advanced payments of the premium tax credit (APTC) or cost-sharing reductions, effective March 1, 2018?

Procedural History

On October 24, 2017, NYSOH issued a renewal notice stating that it was time to renew your application for financial assistance with health insurance for 2018.

On November 22, 2017, NYSOH issued a disenrollment notice, stating your enrollment in your QHP was ending, effective December 31, 2017.

On December 30, 2017 and January 8, 2018, you updated your NYSOH application.

On December 31, 2017 and January 9, 2018, NYSOH issued eligibility determinations stating that you were eligible to purchase a QHP at full cost through NYSOH, 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 for one of the following reasons: 1. You indicated you did not plan to file a tax return; 2. You are married and indicated you plan to file your taxes separately from your spouse; or 3. APTC was paid to

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your health insurance company to reduce your premium costs in a prior year and, NYSOH could not determine whether your taxes were filed for that year.

On January 23, 2018 you submitted an updated application for financial assistance with your health insurance to NYSOH. That day, a preliminary eligibility determination was prepared stating that you were eligible to purchase a QHP at full cost.

Also on January 23, 2018, you contacted NYSOH's Account Review Unit and requested an appeal of the preliminary eligibility determination, insofar as you were not eligible for financial assistance.

On January 24, 2018, NYSOH issued an eligibility determination, based on your January 12, 2018 application, stating that you were eligible to purchase a QHP at full cost through NYSOH, effective March 1, 2018. The notice stated that you and were not eligible to receive APTC or cost-sharing reductions because NYSOH was missing information about your taxes for one of the following reasons: 1. You indicated you did not plan to file a tax return; 2. You are married and indicated you plan to file your taxes separately from your spouse; or 3. APTC was paid to your health insurance company to reduce your premium costs in a prior year and, NYSOH could not determine whether your taxes were filed for that year.

Also on January 24, 2018, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a silver level QHP, beginning March 1, 2018.

On April 25, 2018, you appeared at a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open through May 23, 2018 to allow you time to submit supporting documentation.

As of May 24, 2018, no documentation was received by the Appeals Unit, and none was visible in your NYSOH account. Therefore, the record was closed that same day.

Findings of Fact

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

- 1) You testified that you are seeking to be eligible for a tax credit to assist with the cost of your QHP in 2018.
- 2) Your NYSOH account reflects you received APTC all 12 months of 2017, and all 12 months of 2016.
- 3) Your NYSOH account reflects you are not married.

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- 4) You testified, and your NYSOH account confirms, that you plan to file your 2018 tax return as single.
- 5) You testified you filed a tax return for 2016 by the filing deadline.
- 6) You testified your tax preparer did not complete the Form 8962, and so you completed and filed an amended return at the end of January 2018.
- 7) According to the IRS, form 8962 is used to calculate the amount of premium tax credit for which you are eligible, and reconcile it with any APTC you may have received during that tax year.
- 8) You testified you have not heard anything back from the IRS regarding your amended return.
- 9) You testified you have moved to a new address, [REDACTED], and requested the decision be sent to that address.
- 10) The record was held open for four weeks (28 days) at the end of the hearing for you to contact the IRS and request a 2016 tax return transcript to see whether your amended return with the Form 8962 had been processed by the IRS.
- 11) No documentation was received by the Appeals Unit after the hearing.

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 QHP, and (3) is not otherwise eligible

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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, or the APTC received was not reconciled on that tax return (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 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 are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (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 QHP at full cost through NYSOH, and not eligible for APTC or cost-sharing reductions, effective March 1, 2018.

On January 23, 2018, NYSOH received your updated application for financial assistance. On January 24, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a QHP at full cost through NYSOH, effective March 1, 2018, and ineligible to receive APTC or cost-sharing reductions. This was because of one of the following reasons: 1. You indicated in your application that you did not plan to file a tax return; 2. You are married and indicated in your application that you plan to file your tax return separately from your spouse; or 3. APTC was paid to your health insurance

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company on your behalf in a prior year and NYSOH could not ascertain if a federal tax return was filed, and your APTC reconciled, for that year.

Your NYSOH account reflects that you plan to file a tax return for 2018, and that you plan to file it as single. You confirmed this information in your testimony, and confirmed that you are not married. Therefore, it appears the reason you were denied any APTC or cost-sharing reductions is that you received APTC in a prior year for which a tax return was not filed and/or the APTC you received was not reconciled.

You testified you filed a federal income tax return for 2016. However, you testified your tax preparer did not reconcile the APTC you received in 2016 on the "IRS Form 8962" when you filed, and so you had to amend your tax return. You testified your amended return was filed at the end of January 2018.

Applicants who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income, as stated on their NYSOH application, with their actual income, as stated on their federal income tax return.

As you received APTC in 2016, you were required to file a tax return for 2016 and reconcile the APTC you received in 2016. Since your 2016 APTC was not reconciled on your 2016 tax return at the time of your January 23, 2018 application, or the January 24, 2018 eligibility determination, NYSOH properly determined that you were eligible to purchase a QHP at full cost through NYSOH, and ineligible to receive APTC or cost-sharing reductions.

Since you testified you filed an amended return at the end of January 2018, but you have not updated your account since January 23, 2018, the record was kept open so you could request an IRS transcript of your 2016 tax return and submit it to the Appeals Unit. However, by the end of the four weeks you were given to supply this transcript, no documentation was received by the Appeals Unit, or uploaded to your NYSOH account. For this reason, there is no basis for returning your case to NYSOH to rerun your application.

Therefore, the January 24, 2018 eligibility determination notice was correct and is **AFFIRMED**.

You may update your application at any time to see whether you are eligible for financial assistance.

Decision

The January 24, 2018 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: May 30, 2018

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How this Decision Affects Your Eligibility

NYSOH was proper in finding you eligible to enroll in a QHP at full cost, and ineligible for APTC because NYSOH did not have information showing that you and your spouse had reconciled a prior year's tax credits.

You may update your NYSOH application at any time to see whether you may be eligible for a tax credit, as you have indicated you amended your 2016 tax return.

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.

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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 January 24, 2018 eligibility determination is AFFIRMED.

NYSOH was proper in finding you eligible to enroll in a QHP at full cost, and ineligible for APTC because NYSOH did not have information showing that you and your spouse had reconciled a prior year's tax credits.

You may update your NYSOH application at any time to see whether you may be eligible for a tax credit, as you have indicated you amended your 2016 tax return.

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&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.

אידיש (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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