



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

Notice of Decision

Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027858



Dear [REDACTED]

On March 28, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's December 16, 2017 eligibility determination and enrollment notices, and the January 21, 2018 eligibility determination and enrollment 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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Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

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), effective January 1, 2018?

Did NYSOH properly determine that your enrollment in a silver level qualified health plan, as well as the application of advance premium tax credits, was effective March 1, 2018?

Procedural History

On December 15, 2017, you updated your application for financial assistance with health insurance.

On December 16, 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 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.

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Also on December 16, 2017, NYSOH issued an enrollment confirmation notice confirming your enrollment in a bronze level full-pay qualified health plan.

On January 17, 2018, you faxed in a copy of Tax Return Transcripts for the 2015 and 2016 tax period.

On January 21, 2018, NYSOH issued an eligibility determination stating that you were eligible for a tax credit up to \$262.00 per month, effective February 1, 2018. You were found ineligible for cost-sharing reductions because your household income of \$40,680.00 is over the allowable income limit.

Also on January 21, 2018, NYSOH issued an enrollment confirmation notice confirming your enrollment in a silver-level qualified health plan, effective March 1, 2018. This notice states that your advance premium tax credit will be applied to your monthly premium starting on March 1, 2018.

On January 26, 2018, you spoke to NYSOH's Account Review Unit and appealed this determination insofar as your APTC did not begin on January 1, 2018.

On March 28, 2018, you had a hearing with a Hearing Officer from NYSOH's Appeals Unit. You clarified that you were appealing the start of your silver level qualified health plan and APTC. The record was developed during the hearing and held open until April 27, 2018, to allow you time to submit supporting documentation.

On April 17, 2018, the Appeals Unit received via fax a copy of your 2015 Premium Tax Credit Form 8962, your 2015 Form 1095-A, and your 2016 Form 1095-B. These documents were incorporated in the record as Appellant's Exhibit #1 and the record was closed on April 27, 2018.

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 and to backdate your silver level qualified health plan beginning January 1, 2018.
- 2) Your NYSOH account reflects that you received APTC in 2015 and 2017.
- 3) You testified that your accountant filed a tax return for 2015 on your behalf and that there are not any years that you were required to file a tax return that you did not file a return.
- 4) You testified that your accountant filed your 2015 tax return on [REDACTED], that you did not need an extension to file your return, and your return was not amended.

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- 5) You testified that your accountant reconciled your APTC by filing form 8962.
- 6) You testified that you contacted the NYSOH on December 15, 2017 regarding your eligibility. You testified that you chose a bronze-level plan on that day was because you could not afford the silver-level plan at full cost.
- 7) On January 17, 2018, you submitted your IRS Tax Transcript for your 2015 tax return which indicated that your 2015 tax return was received by the IRS on [REDACTED]. This document states \$0 for excess advance premium tax credit repayment verified amount and \$0 for premium tax credit verified amount.
- 8) On January 21, 2018, NYSOH determined that you were eligible for APTC up to \$262.00 per month effective March 1, 2018.
- 9) The record reflects that when you were found eligible for financial assistance on January 20, 2018, you chose a silver-level plan.
- 10) You faxed your 2015 Premium Tax Credit Form 8962 which indicates that \$2,412.00 was owed in excess advance premium tax credits.
- 11) You also faxed your 2015 Form 1095-A which indicates an annual advance payment of premium tax credit received in the amount of \$2,412.00.
- 12) Your NYSOH account reflects that you expect to file your 2018 tax return with a tax filing status of married filing jointly 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)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Redetermination During a Benefit Year

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month,

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may not be made effective until the first day of the month after the month following the date of the notice of redetermination (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

Legal Analysis

The first 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, effective January 1, 2018.

On December 15, 2017, NYSOH received your updated application for financial assistance for the 2018 coverage year. On December 16, 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. This was because APTC was paid to your health insurance company on your behalf in 2015 and NYSOH could not ascertain if a federal tax return was filed or reconciled for that year.

You testified that your accountant timely filed your 2015 taxes on [REDACTED], that you did not need an extension to file your return, and your return was not amended. You stated that Form 8962 was filed with your taxes.

At the time of your December 15, 2017 application, NYSOH had not received information from the IRS that your tax return for the 2015 tax period had been properly filed or reconciled. If NYSOH is unable to obtain information that a prior year's tax return has been filed, 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.

You submitted your IRS tax transcript which indicated that your tax return for the 2015 tax period was received by the IRS on [REDACTED]. This document states \$0 for excess advance premium tax credit repayment verified amount and \$0 for premium tax credit verified amount. However, you also faxed a copy of your 2015 Premium Tax Credit Form 8962 and your 2015 Form 1095-A which both indicate that \$2,412.00 in excess advance premium tax credits was owed.

The information in these documents contradict each other therefore, the Appeals Unit finds that there is insufficient evidence in the record to show that you did reconcile your APTC for 2015.

As you received APTC in 2015 and there is insufficient evidence in the record to demonstrate that you reconciled your APTC for 2015 prior to the time of your December 15, 2017 application, the December 16, 2017 eligibility determination finding you eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018, and ineligible to receive APTC is **AFFIRMED**.

You testified and the record reflects that on December 15, 2017 you enrolled in a bronze level qualified health plan.

Therefore, the December 16, 2017 enrollment notice stating you are enrolled in a bronze-level qualified health plan at full cost is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your enrollment in a silver level qualified health plan, as well as the application of advance premium tax credits, was effective March 1, 2018.

On January 21, 2018, NYSOH issued an plan enrollment notice stating that you were eligible for APTC up to \$262.00 per month, effective March 1, 2018.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

The record reflects and you confirmed that you updated your application and chose a silver-level qualified health plan on January 20, 2018. Being after the fifteenth of the month, the January 21, 2018 redetermination of eligibility properly became effective the first day of the second following month, or March 1, 2018.

Therefore, the January 21, 2018 eligibility determination notice and enrollment notices stating that your eligibility for APTC and enrollment in a silver level qualified health plan began March 1, 2018 are AFFIRMED.

Decision

The December 16, 2017 eligibility determination and enrollment notices are AFFIRMED.

The January 21, 2018 eligibility determination and enrollment notices are AFFIRMED.

Effective Date of this Decision: May 7, 2018

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

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).

NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2018.

Your enrollment in a silver-level qualified health plan and your eligibility for APTC properly began March 1, 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.

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):

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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- By mail at:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The December 16, 2017 eligibility determination and enrollment notices are **AFFIRMED**.

NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2018.

The January 21, 2018 eligibility determination and enrollment confirmation notices are **AFFIRMED**.

Your enrollment in a silver-level qualified health plan and your eligibility for APTC properly began March 1, 2018.

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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