



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

Notice of Decision

Decision Date: April 2, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027862

[REDACTED]

[REDACTED],

On March 28, 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 2, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027862



Issue

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

Did NY State of Health properly determine that you and your oldest child were eligible to purchase a qualified health plan at full cost through NYSOH and not eligible for advanced payments of the premium tax credit, effective February 1, 2018?

Procedural History

On January 5, 2018, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On January 6, 2018, NYSOH issued an eligibility determination notice stating, in part, that you and your oldest child were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2018. The notice stated that you and your oldest child were not eligible to receive advanced payments of the premium tax credit (APTC) because APTC was made to your health insurance company to reduce your premium costs in a prior year and NYSOH could not tell if a federal tax return was filed for that year.

On January 10, 2018, NYSOH received your updated application for financial assistance with health insurance. You also uploaded one document to your NYSOH that day.

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).

On January 11, 2018, NYSOH issued an eligibility determination notice stating, in part, that you and your oldest child were eligible to purchase a qualified health plan at full cost through NYSOH. This eligibility was effective February 1, 2018.

On January 11, 2018, NYSOH also issued a plan enrollment notice confirming, in part, your enrollment in a full pay bronze level qualified health plan and your oldest child's enrollment in a full pay child-only bronze level qualified health plan, both effective February 1, 2018.

Also on January 11, 2018, you uploaded your 2016 federal tax transcript to your NYSOH account (see [REDACTED]).

On January 26, 2018, NYSOH received your application for financial assistance with health insurance. That day a preliminary eligibility determination was prepared stating, in part, that you and your oldest child were eligible to purchase a qualified health plan at full cost through NYSOH, effective March 1, 2018.

Also on January 26, 2018, you spoke to NYSOH's Account Review Unit and appealed this determination insofar as you and your oldest child were found ineligible for financial assistance.

On January 27, 2018, NYSOH issued an eligibility determination notice stating, in part, that you and your oldest child were eligible to purchase a qualified health plan at full cost through NYSOH, effective March 1, 2018.

Also on January 30, 2018, NYSOH issued a plan enrollment notice stating, in part, that you and your oldest child were enrolled in a full pay bronze-level qualified health plan, effective February 1, 2018.

On February 16, 2018, NYSOH issued an eligibility determination notice, based on a system run application on February 15, 2018, stating, in part, that you and your oldest child were eligible for up to \$550.00 per month in APTC and eligible for cost-sharing reductions if you enrolled into a silver level qualified health plan, both effective March 1, 2018.

On March 23, 2018, NYSOH issued a plan enrollment notice stating, in part, that you and your oldest child were enrolled in a bronze-level qualified health plan, effective February 1, 2018, with \$550.00 per month in APTC to be applied to the monthly premium, effective April 1, 2018.

On March 28, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you testified that the issue under appeal had been resolved moving forward. However, you clarified that you are currently seeking to have your and your oldest child's APTC retroactively applied for the month of February 2018. Therefore, the Hearing Officer agreed to amend the appeal to include the January 11, 2018 eligibility determination notice. The

record was developed during the hearing and closed at the end of the proceeding.

Findings of Fact

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

- 1) According to your NYSOH account, APTC was paid on your behalf in 2016.
- 2) On January 11, 2018, NYSOH issued an eligibility determination stating, in part, that you and your oldest child [REDACTED] were not eligible for financial assistance because APTC had been paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to tell if a federal tax return was filed for that year.
- 3) You testified that you always use an accountant to file your taxes and that you were sure that your accountant reconciled your APTC on your 2016 tax return.
- 4) On January 11, 2018, you submitted a tax return transcript issued by the IRS for your 2016 federal tax return. The transcript indicates that the IRS received your 2016 federal tax return on April 15, 2017, and that they received Form 8962 with your 2016 federal tax return (see Document [REDACTED]).
- 5) According to your NYSOH account, you are applying for health insurance through NYSOH for you, and your two children.
- 6) You testified, and the application that was submitted on January 5, 2018 indicates, that you plan on filing your 2018 tax return as head of household and you will claim two dependents on that tax return.
- 7) The application that was submitted on January 5, 2018, listed your expected annual household income for 2018 to be \$49,000.00, which consists of \$75,000.00 in income you earn from your employment and included a \$26,000.00 tuition and fee deduction.
- 8) Your NYSOH account indicates that you and your family reside in New York County, NY.
- 9) You testified that you would like your and your oldest child's eligibility for financial assistance to be redetermined for the month of February 2018.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

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Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

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)).

NYSOH may not authorize APTC when it was paid on behalf of the tax filer or it's spouse, for a year which the tax data would be utilized for verification of household income and size, and that tax filer and his spouse did not file a tax return for that year (45 CFR § 155.305(f)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). 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)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e),(f)(1)(i)).

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” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, tuition and fees for a dependent’s higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer’s yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly. This deduction was renewed by Congress in December 2014 and made retroactive to the 2014 tax year and extended to December 31, 2017 (26 USC § 222(e); see IRS Publication 970).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your oldest child were eligible to purchase a qualified health plan at full cost through NYSOH and not eligible for APTC, effective February 1, 2018.

On January 10, 2018, NYSOH received your household’s application for financial assistance with health insurance. Based on that application, NYSOH determined that you and your oldest child were not eligible for financial assistance because, based on federal and state data sources, it appeared that you had not filed a prior year’s tax return and, as a result, did not reconcile your APTC that you received with the IRS.

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. Therefore, if APTC was paid on that tax filer’s behalf in a previous year and NYSOH is unable to determine whether the APTC was reconciled on their federal tax return, NYSOH may determine a tax filer ineligible for APTC.

However, your NYSOH account shows that you submitted a copy of your 2016 IRS tax transcripts showing you filed taxes for 2016 on April 15, 2017, with the requisite information, including Form 8962 showing reconciliation of your APTC (see Document [REDACTED]). Therefore, the record supports that, at the time of January 10, 2018 application you had in fact filed your 2016 tax return

with Form 8962 and the data sources NYSOH had relied on to make its determination were incorrect.

Since the January 11, 2018, eligibility determination notice finding you and your oldest child eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2018, is RESCINDED.

However, on February 16, 2018, NYSOH issued an eligibility determination notice, based on a system run application on February 15, 2018, stating, in part, that you and your oldest child were eligible for up to \$550.00 per month in APTC and eligible for cost-sharing reductions if you enrolled into a silver level qualified health plan, both effective March 1, 2018, based on income of \$49,000.00.

Also, on March 23, 2018, NYSOH issued a plan enrollment notice stating, in part, that you and your oldest child were enrolled in a bronze-level qualified health plan, effective February 1, 2018, with the application of \$550.00 per month in APTC applied to the monthly premium, effective April 1, 2018.

NYSOH bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code. The IRS allows a single tax payer to deduct from their adjusted gross income up to \$4,000.00 in tuition and fees for higher education in 2017, whose yearly income does not exceed \$80,000.00, subject to some limitations.

Since the highest amount that you can deduct for a tuition and fee deduction, based on IRS regulation, is \$4,000.00, your household's eligibility should be determined using a MAGI of \$71,000.00 (\$75,000.00 you earn from your employment less \$4,000.00 for a tuition and fee deduction).

The record indicates that you will be filing as Head of Household and will be claiming two dependents, which is considered to be a three-person household for purposes of determining eligibility for financial assistance through NYSOH.

Therefore, your case is RETURNED to NYSOH to redetermine your and your oldest child's eligibility for financial assistance with health insurance as of January 10, 2018, using a three-person household with an expected annual household income of \$71,000.00, for a primary subscriber and one dependent under age 26, both residing in New York County, NY.

NYSOH is directed to refer to your 2016 IRS tax transcript for verification you filed your tax return with Form 8962 (see Document [REDACTED]).

Decision

The January 11, 2018 eligibility determination notice is 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 redetermine your and your oldest child's eligibility for financial assistance with health insurance as of January 10, 2018, using a three-person household with an expected annual household income of \$71,000.00, for a primary subscriber and one dependent under age 26, both residing in New York County, NY.

Effective Date of this Decision: April 2, 2018

How this Decision Affects Your Eligibility

This is not a final determination of your and your oldest child's eligibility for financial assistance in 2018.

You will receive a new eligibility determination notice reflecting your and your oldest child's eligibility for financial assistance as of January 10, 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

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).

- 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 January 11, 2018 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your and your oldest child's eligibility for financial assistance with health insurance as of January 10, 2018, using a three-person household with an expected annual household income of \$71,000.00, for a primary subscriber and one dependent under age 26, both residing in New York County, NY.

This is not a final determination of your and your oldest child's eligibility for financial assistance in 2018.

You will receive a new eligibility determination notice reflecting your and your oldest child's eligibility for financial assistance as of January 10, 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 1-855-355-5777 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)

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।

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).

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. ye&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 אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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).