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

Notice of Decision

Decision Date: April 09, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000028100

[redacted]

[redacted]

On March 28, 2018, your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2017 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 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).

This page intentionally left blank.

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

Decision

Decision Date: April 09, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000028100

[redacted]

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 spouse were eligible to purchase a qualified health plan at full cost through NYSOH, and not eligible to receive advance payments of the premium tax credit, effective January 1, 2018?

Procedural History

On November 1, 2017, NY State of Health (NYSOH) issued a renewal notice stating that it was time for you and/or members of your household to renew your health insurance through NYSOH. This notice further stated that, based on state and federal data sources, you and your spouse were eligible for an advanced premium tax credit (APTC) of up to $922.58 per month, effective January 1, 2018. This notice further indicated that if you and/or your spouse needed to make changes to your NYSOH account that may affect your eligibility to do so between November 16, 2017 and December 15, 2017, in order for these changes to be effective as of January 1, 2018.

On November 17, 2017, NYSOH issued a plan enrollment notice confirming you and your spouse's enrollment in a bronze-level qualified health plan with $674.00 in APTC applied to your monthly premium, both effective January 1, 2018.

On December 14, 2017, NYSOH received your updated application for financial assistance with health insurance.

On December 15, 2017, NYSOH issued an eligibility determination, based on your December 14, 2017 application, stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018. This notice further stated that you and your spouse were ineligible for APTC because, based on federal and state data sources, NYSOH had determined that you and your spouse were already enrolled in or eligible for a public insurance program such as Medicare.

Also on December 15, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in a full pay qualified health plan, effective January 1, 2018.

On January 29, 2018, NYSOH received your updated application for financial assistance with health insurance.

On January 30, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to $845.00 per month in APTC, effective February 1, 2018.

Also on January 30, 2018, NYSOH issued a plan enrollment notice confirming you and your spouse's enrollment in a bronze-level qualified health plan with $845.00 per month in APTC applied to your monthly premium, effective February 1, 2018.

Also on January 30, 2018, you spoke to NYSOH's Account Review Unit and appealed the December 15, 2017 eligibility determination notice insofar as you and your spouse were not found eligible for APTC for the month of January 2018.

On March 28, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your adult child, [redacted], acted as your authorized representative during the hearing and presented testimony on your behalf. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

1) Your authorized representative testified that you are appealing the fact that you and your spouse were found eligible for a full pay qualified health plan for the month of January 2018.

2) The application that was submitted on December 14, 2017, indicates that you and your spouse expect to file your tax return for 2018 with a tax filing status of married filing jointly. You will claim no dependents on that tax return.

3) You are seeking health insurance for yourself and your spouse.

4) The application that was submitted on December 14, 2017, indicated that you answered “yes” to the questions regarding whether you and your spouse were enrolled into Medicare coverage.

5) Your authorized representative stated that these questions were answered “yes” by mistake.

6) Your authorized representative testified that you and your spouse are not currently receiving Medicare benefits, nor have you and your spouse received Medicare benefits in the past.

7) Your authorized representative testified that you and your spouse are not eligible to receive Medicare benefits.

8) There is no other indication in the record that federal and state data sources show that you and your spouse are receiving Medicare benefits or have received Medicare benefits in the past.

9) The application that was submitted on December 14, 2017, listed an annual household income of $49,200.00, consisting of $15,600.00 you earn from your employment and $33,600.00 your spouse earns from her employment.

10) Your application states that you will not be taking any deductions on your 2018 tax return.

11) Your application states that you and your spouse live in Orange County.

12) Your authorized representative testified that you are seeking to have your APTC applied to your and your spouse’s January 2018 premium because it was in error that you and your spouse were not found eligible for APTC in that month.

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

Applicable Law and Regulations

Advance Payments of 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), 26 CFR § 1.36B-2, 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

Minimum essential coverage includes, but is not limited to, coverage under:

- Government sponsored programs, such as Medicare, Medicaid, CHIP, and Tricare;
- Employer-sponsored plans; and
- Plans in the individual market

(26 USC § 5000A(f)).

The maximum amount of APTC that can be authorized equals:

1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

2) the taxpayer's expected contribution amount

(*see* 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2018 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3, IRS Rev. Proc. 2017-36).

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).

For annual household income in the range of at least 300% but less than 400% of the 2017 FPL, the expected contribution for 2018 is 9.56% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2017-36).

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).

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).

Legal Analysis

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

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 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. Minimum essential coverage includes whether the person is eligible for or are receiving Medicare benefits.

The application that was submitted on December 14, 2017, indicated that you responded “yes” to the questions regarding whether you and your spouse were enrolled in Medicare benefits. Since your application indicated that you and your spouse were receiving Medicare benefits, NYSOH assumed that you and your spouse had minimum essential coverage through a government-sponsored program outside of the individual market for purposes of APTC eligibility. Therefore, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost, effective January 1, 2018, and that you and your spouse were ineligible for APTC.

However, your authorized representative testified that this answer was entered into your application by mistake. Your authorized representative testified that you and your spouse are not currently receiving Medicare benefits, nor have you and your spouse received Medicare benefits in the past. You authorized representative further testified that you and your spouse are not eligible for Medicare benefits. Further, there is no other indication in the record that federal and state data sources show that you and your spouse are receiving Medicare benefits or have received Medicare benefits in the past.

Therefore, it is concluded that, the information that was relied upon in your December 14, 2017 application is not supported by the record and the December 15, 2017 eligibility determination notice is RESCINDED.

The application that was submitted on December 14, 2017, listed an expected annual household income of $49,200.00, which consists of $15,600.00 you earn from your employment and $33,600.00 your spouse earns from her employment.

You expect to file your 2018 income tax return as married filing jointly and will claim no dependents on that tax return. Therefore, you and your spouse are in a two-person household.

Based on this information, your case is RETURNED to NYSOH to redetermine your and your spouse's eligibility for financial assistance as of December 14, 2017, with an expected annual income of $49,200.00 for a two-person household, for a couple residing in Orange County, who are not enrolled in Medicare, and to notify you accordingly.

Decision

The December 15, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine you and your spouse's eligibility for financial assistance as of December 14, 2017, with an expected annual income of $49,200.00 for a two-person household, for a couple residing in Orange County, who are not enrolled in Medicare, and to notify you accordingly.

This Decision has no effect on any subsequent eligibility determinations made by NYSOH.

Effective Date of this Decision: April 09, 2018

How this Decision Affects Your Eligibility

This is not a final determination of your and your spouse's eligibility for January 2018.

Your case is being returned to redetermine your and your spouse's eligibility as of December 14, 2017, and to notify you accordingly.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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

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: 1-855-900-5557

Summary

The December 15, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine you and your spouse's eligibility for financial assistance as of December 14, 2017, with an expected annual income of $49,200.00 for a two-person household, for a couple residing in Orange County, who are not enrolled in Medicare, and to notify you accordingly.

This Decision has no effect on any subsequent eligibility determinations made by NYSOH.

This is not a final determination of you and your spouse's eligibility for January 2018.

Your case is being returned to redetermine you and your spouse's eligibility as of December 14, 2017, and to notify you accordingly.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

[redacted]

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).

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。我们可以为您免费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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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).