

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

Notice of Decision

Decision Date: April 19, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028130



On April 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 28, 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 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
DEPARTMENT OF HEALTH
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Decision

Decision Date: April 19, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028130



Issue

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

Did New York State of Health properly determine that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH and ineligible for advanced payments of the premium tax credit or cost-sharing reductions, effective January 1, 2018?

Procedural History

According to your NY State of Health (NYSOH) account, you and your spouse were determined eligible to receive up to \$644.00 per month in advanced payments of the premium tax credit (APTC), effective January 1, 2017. You and your spouse were enrolled in a bronze-level qualified health plan (QHP) with the maximum amount of APTC applied to your monthly premium, both effective February 1, 2017.

On October 24, 2017, NYSOH issued a renewal notice stating that it was time for you to renew your household's health insurance coverage through NYSOH. This notice further stated that NYSOH was unable to make a decision about whether your household would qualify for financial help paying for your health insurance coverage and directed you to update your NYSOH account between November 16, 2017 and December 15, 2017 in order for NYSOH to make the appropriate decision.

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On November 27, 2017, NYSOH received your updated application for financial assistance with health insurance.

On November 28, 2017, NYSOH issued an eligibility determination notice stating, in part, that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018. This notice further stated that you and your spouse were not eligible for APTC for one of the following reasons: You told NYSOH that you do not plan on filing a federal tax return; or you are married and told NYSOH that you will file taxes separately from your spouse; or you received APTC in prior years and NYSOH cannot tell if a federal tax return was filed for that year.

On December 15, 2017, you uploaded your 2016 IRS tax transcript to your NYSOH account.

On January 31, 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 spouse were eligible to purchase a QHP at full cost through NYSOH, effective March 1, 2018.

Also on January 31, 2018, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as you and your spouse were not found eligible for financial assistance with health insurance.

On February 1, 2018, NYSOH issued an eligibility determination notice stating, in part, that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective March 1, 2018. This notice further stated that you and your spouse were not eligible for APTC for one of the following reasons: You told NYSOH that you do not plan on filing a federal tax return; or you are married and told NYSOH that you will file taxes separately from your spouse; or you received APTC in prior years and NYSOH cannot tell if a federal tax return was filed for that year.

On April 9, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record was closed at the end of the hearing.

Findings of Fact

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

- 1) According to your NYSOH account, you and your spouse received APTC for the first time in February 2017.

- 2) According to your NYSOH account and your testimony, you are applying for health insurance for yourself, your spouse, and your three children.
- 3) You testified that you are only appealing your and your spouse's eligibility.
- 4) According to your NYSOH account and your testimony, you expect to file a 2018 federal income tax return with the tax status of married filing jointly and you will claim two dependents on that tax return.
- 5) You testified that your youngest child is claimed by [REDACTED] who lives outside of the household.
- 6) The November 27, 2017 application listed an expected annual household income of \$53,318.00, consisting of \$30,113.00 your spouse earns in self-employment and \$23,205.00 you earn from your employment. You testified that this amount was roughly correct.
- 7) After updating your NYSOH account on November 27, 2017, you and your spouse were found eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018. The notice that was issued on November 28, 2017 stated in part that this was because APTC had been paid to your and your spouse's 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.
- 8) According to your NYSOH account, you and your spouse did not receive any financial assistance in the form of APTC for the 2015 coverage year.
- 9) According to your NYSOH account, during the 2016 coverage year, you and your spouse had Essential Plan coverage and did not receive any financial assistance in the form of APTC.
- 10) You submitted a copy of your 2016 IRS tax transcript to your NYSOH account on December 15, 2017, which indicates that you filed your 2016 federal tax return on April 15, 2017.
- 11) According to your NYSOH account, in the 2017 coverage year, you and your spouse received APTC.
- 12) As of the date of hearing, your 2017 federal tax return had not been filed. You testified that you planned on having your tax return submitted by the tax filing deadline.
- 13) The Hearing Officer took judicial notice that 2017 federal tax returns were not due until [REDACTED] and, as a result, whether these taxes were filed were not at issue during the hearing.

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- 14) You testified that you and your spouse have not enrolled into a QHP for the 2018 coverage year because you are unable to afford the cost of a health plan without financial assistance.

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)).

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Legal Analysis

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

On November 27, 2017, NYSOH received your household's updated application for health insurance. Based on that application, NYSOH determined that you and your spouse 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 with Form 8962, and as a result, did not reconcile your and your spouse's APTC that you received in prior years 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, the record indicates that the first year you and your spouse received APTC through NYSOH was for the 2017 coverage year. You further testified that you have not yet filed your 2017 tax return, but that you plan to do so by the April 17, 2018 deadline. As of the date of the hearing, the deadline to file your 2017 federal tax returns had not yet passed and as a result whether your 2017 federal tax return was filed with the requisite information was not at issue at the hearing. Further, the record indicates that during the 2016 and 2015 coverage year, you and your spouse had Essential Plan coverage and/or did not receive any financial assistance in the form of APTC.

You submitted a copy of your 2016 IRS tax transcript to your NYSOH account on December 15, 2017. This transcript indicates that you and your spouse filed your 2016 federal tax return on April 15, 2017. Applicants who receive Essential Plan coverage are not required to submit Form 8962 with their federal tax return because reconciliation is not necessary for those applicants who were eligible for and enrolled in the Essential Plan through NYSOH.

Therefore, at the time of the November 27, 2017 application, it is concluded that the data sources that NYSOH had relied on to make its determination were incorrect.

Since the November 28, 2017 eligibility determination notice is not supported by the record, it must be RESCINDED as it pertains to your and your spouse's eligibility only.

Since the November 28, 2017 eligibility determination notice is no longer supported by the record as developed during the hearing, your case is RETURNED to NYSOH to redetermined your and your spouse's eligibility for financial assistance with health insurance as of November 27, 2017, using a four-person household with an expected annual income of \$53,318.00, for a couple residing in [REDACTED], NY.

Further, you testified that you and your spouse could not afford to be enrolled into a full price QHP, and were concerned that you would be unable to enroll into health coverage for the remainder of 2018. However, if not for NYSOH's error, you and your spouse should have found eligible for financial assistance with your health insurance. Since your and your spouse's non-enrollment in a QHP during the open enrollment period was a direct result of an error made by NYSOH, you and your spouse are granted a special enrollment period as of your November 27, 2017 application.

Your case is RETURNED to NYSOH to assist you and your spouse in enrolling into a QHP after your eligibility is redetermined. You and your spouse may choose to enroll into a QHP as of November 27, 2018, which would result in a January 1, 2018 start date, because your and your spouse's inability to be enrolled in a QHP was a direct result of an error made by NYSOH. In the alternative, you and your spouse may elect to enroll into coverage within 60 days from the date of this decision.

You and your spouse will be responsible for all premium payments for any months you and your spouse are enrolled into coverage.

Decision

The November 28, 2017 eligibility determination notice is RESCINDED as it pertains to your and your spouse's eligibility only.

Your case is RETURNED to NYSOH to redetermined your and your spouse's eligibility for financial assistance with health insurance as of November 27, 2017, using a four-person household with an expected annual income of \$53,318.00, for a couple residing in [REDACTED], NY,

Your case is further RETURNED to NYSOH to assist you and your spouse in enrolling into a QHP after your eligibility is redetermined. You and your spouse may choose to enroll into a QHP as of November 27, 2018, which would result in a January 1, 2018 start date, because your and your spouse's inability to be enrolled in a QHP was a direct result of an error made by NYSOH. In the alternative, you and your spouse may elect to enroll into coverage within 60 days from the date of this decision.

Effective Date of this Decision: April 19, 2018

How this Decision Affects Your Eligibility

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

Your case is being sent back to NYSOH to redetermine your and your spouse's eligibility for financial assistance as of November 27, 2017. You and your spouse are also being granted a special enrollment period as of November 27, 2017, if you so choose, which would give you an enrollment start date of January 1, 2018. In the alternative, you and your spouse may elect to enroll into coverage within 60 days from the date of this decision.

You and your spouse will be responsible for all premium payments for any months you and your spouse are enrolled into coverage.

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 November 28, 2017 eligibility determination notice is **RESCINDED** as it pertains to your and your spouse's eligibility only.

Your case is **RETURNED** to NYSOH to redetermined your and your spouse's eligibility for financial assistance with health insurance as of November 27, 2017, using a four-person household with an expected annual income of \$53,318.00, for a couple residing in [REDACTED], NY,

Your case is further **RETURNED** to NYSOH to assist you and your spouse in enrolling into a QHP after your eligibility is redetermined. You and your spouse may choose to enroll into a QHP as of November 27, 2018, which would result in a January 1, 2018 start date, because your and your spouse's inability to be enrolled in a QHP was a direct result of an error made by NYSOH. In the alternative, you and your spouse may elect to enroll into coverage within 60 days from the date of this decision.

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Your case is being sent back to NYSOH to redetermine your and your spouse's eligibility for financial assistance as of November 27, 2017. You and your spouse are also being granted a special enrollment period as of November 27, 2017, if

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you so choose, which would give you an enrollment start date of January 1, 2018. In the alternative, you and your spouse may elect to enroll into coverage within 60 days from the date of this decision.

You and your spouse will be responsible for all premium payments for any months you and your spouse are enrolled into coverage.

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)

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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।

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. yeb&tumi ama wo obi a okyer& 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.

אײַדיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אײך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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