



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

Notice of Decision

Decision Date: May 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028203



Dear [REDACTED]

On May 11, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 18, 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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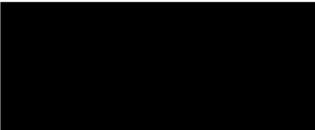


STATE OF NEW YORK
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Decision

Decision Date: May 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028203



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 and your spouse were eligible to purchase a qualified health plan (QHP) 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 December 14, 2017, December 15, 2017, January 12, 2018, and January 15, 2018, you updated your NYSOH application.

On December 15, 2017, December 16, 2017, January 13, 2018, and January 16, 2018, NYSOH issued eligibility determination notices stating you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018 (December 15 and 16 notices), and February 1, 2018 (January 13 and 16 notices). The notices stated you and your spouse were not eligible to receive APTC or cost-sharing reductions because NYSOH was missing information about your taxes for one of the following reasons: You indicated you did not plan to file a tax return; you are married and indicated you plan to file your taxes separately from your spouse; or 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.

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On January 17, 2018, you uploaded documentation to your NYSOH account. That same day, NYSOH redetermined your eligibility.

On January 18, 2018, NYSOH issued a notice of eligibility determination stating you and your spouse were eligible to enroll in a QHP at full cost through NYSOH, effective March 1, 2018. The notice stated you and your spouse were not eligible to receive APTC or cost-sharing reductions because NYSOH was missing information about your taxes for one of the following reasons: You indicated you did not plan to file a tax return; you are married and indicated you plan to file your taxes separately from your spouse; or 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.

On January 31, 2018, you selected a bronze level QHP for enrollment on behalf of yourself and your spouse.

Also on January 31, 2018, you contacted NYSOH's Account Review Unit and requested an appeal of the January 18, 2018 eligibility determination, insofar as you and your spouse were not eligible for financial assistance.

On February 1, 2018, NYSOH issued a notice of enrollment confirmation, confirming you and your spouse's enrollment in a bronze level QHP, beginning March 1, 2018.

On March 15, 2018, NYSOH issued a disenrollment notice, stating you and your spouse were disenrolled from you QHP, effective March 1, 2018, because you did not pay your insurance bill by the payment deadline.

On May 11, 2018, you appeared at a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open for seven days to allow you time to submit supporting documentation.

On May 11, 2018, you uploaded documentation to your NYSOH account. The record is now closed.

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 you and your spouse's QHP in 2018.
- 2) You testified, and your NYSOH account confirms, that you tried to apply for financial assistance "a couple of times" before January 2018, and were

not found eligible. You testified you were told by NYSOH that you were not eligible because of income, which did not make sense to you.

- 3) You testified, and your NYSOH account confirms, you went back in and tried to apply again in January 2018, but were still not eligible.
- 4) You testified you were not told there was a problem with your taxes until your last application update in January 2018. You testified you were also told you needed to enroll in a plan, or you would not be able to enroll in coverage for 2018.
- 5) Your NYSOH account reflects you uploaded a copy of your 2016 IRS Form 1040 on January 17, 2018 (Document [REDACTED])
- 6) You testified you subsequently found out your tax preparer had not included a document you needed to file, and so you amended your tax return.
- 7) Your NYSOH account reflects that APTC was paid on you and your spouse's behalf in the month of February 2016 (Document [REDACTED])
- 8) You confirmed in your testimony that you completed an IRS Form 8962 and included it in your amended income tax return.
- 9) You testified your accountant is currently working on your 2017 income tax return.
- 10) You testified you and your spouse plan to file an income tax return for 2018, and to file as married, filing jointly.
- 11) You testified you are now working, but you expect your overall income for 2018 to be approximately the same as what you listed in your January 2018 applications, as you expect your spouse to earn less than what was entered into that application.
- 12) 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.
- 13) On May 11, 2018, you uploaded four documents to your NYSOH account as follows:
 - a. A copy of the front page of an IRS Form 1040X, "Amended US Individual Income Tax Return," showing an amount of \$77.00 entered from Form 8962, and stamped "Internal Revenue Service,

- [REDACTED] with a "Received" stamp dated May 9, 2018 (Document [REDACTED])
- b. A copy of the front page of your IRS Form 1040 for 2016 (Document [REDACTED])
 - c. A copy of your IRS Form 8962 showing reconciliation of your APTC received in 2016 (Document [REDACTED])
 - d. A copy of the second page/signature page of your IRS Form 1040X (Document [REDACTED])

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 QHP 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 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)).

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).

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)).

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 and your spouse were eligible to purchase a QHP at full cost through NYSOH, and not eligible for APTC or cost-sharing reductions, effective March 1, 2018.

You submitted four separate applications in December 2017 and January 2018. On January 17, 2018, you uploaded a copy of your 2016 federal income tax return, and NYSOH redetermined you and your spouse's eligibility. On January 18, 2018, NYSOH issued a notice of eligibility determination stating that you and your spouse 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: You indicated in your application that you did not plan to file a tax return; you are married and indicated in your application that you plan to file your tax return separately from your spouse; or APTC was paid to your health insurance 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 jointly. You confirmed this information in your testimony. Therefore, it must be concluded the reason you were denied any APTC or cost-sharing reductions is that you and your spouse received APTC in a prior year for which a tax return was not filed, and/or the APTC you received was not reconciled.

You submitted a copy of your 2016 IRS Form 1040 on January 17, 2018. A review of that return shows you did not complete an IRS Form 8962, which is used to reconcile APTC received during a tax year. However, a review of your NYSOH account reveals you and your spouse received APTC in the month of

February 2016, and therefore you were required to reconcile that receipt of APTC in your 2016 federal income tax return.

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 and your spouse received APTC in 2016, you and your spouse 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 December 2017 and January 2018 applications, or the January 18, 2018 eligibility determination, NYSOH properly determined that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, and ineligible to receive APTC or cost-sharing reductions.

Therefore, the January 18, 2018 eligibility determination notice was correct and is **AFFIRMED**.

However, you testified during the hearing you filed an amended return, and that you reconciled the APTC you received in 2016 on that return. You uploaded a copy of an IRS Form 1040X, "Amended US Individual Income Tax Return" to your NYSOH account, stamped as received by the IRS on May 9, 2018. You also uploaded a copy of a completed IRS Form 8962, which you testified was included with your amended return.

For this reason, your case is **RETURNED** to NYSOH to redetermine you and your spouse's eligibility for financial assistance. NYSOH is directed to contact you to obtain updated income information, as you testified you are now working, and to inform you whether you are eligible for financial assistance.

If you are found eligible for financial assistance, NYSOH is also directed to assist you in applying for a special enrollment period, should you decide you want to try to enroll in coverage after your eligibility is redetermined.

Decision

The January 18, 2018 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to redetermine you and your spouse's eligibility for financial assistance, as you have testified, and provided documentation to show, that you amended your 2016 federal income tax return and reconciled your APTC in that amendment.

NYSOH is directed to contact you prior to redetermining your eligibility to obtain updated financial information, as you testified your income has changed.

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).

Should you decide you would like to try to reenroll in coverage for 2018, NYSOH is directed to assist you in applying for a special enrollment period, once your financial eligibility is redetermined.

Effective Date of this Decision: May 24, 2018

How this Decision Affects Your Eligibility

NYSOH was proper in finding you and your spouse 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.

However, since you have submitted documentation to show you have amended your 2016 federal income tax return and reconciled the APTC you received, your case is being sent back to re-run your application and determine whether you are eligible for financial assistance. NYSOH will contact you to obtain updated income information prior to redetermining your eligibility.

If you decide you would like to try to re-enroll in coverage for 2018, NYSOH will help you to apply for a special enrollment period, as open enrollment is now closed for 2018 coverage.

If you are again determined ineligible for financial assistance, you may wish to try updating your application again, once you have confirmation that the IRS has processed your amended 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)).

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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
- By fax: 1-855-900-5557

Summary

The January 18, 2018 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine you and your spouse's eligibility for financial assistance, as you have testified, and provided documentation to show, that you amended your 2016 federal income tax return and reconciled your APTC in that amendment.

NYSOH is directed to contact you prior to redetermining your eligibility to obtain updated financial information, as you testified your income has changed.

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).

Should you decide you would like to try to reenroll in coverage for 2018, NYSOH is directed to assist you in applying for a special enrollment period, once your financial eligibility is redetermined.

NYSOH was proper in finding you and your spouse 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.

However, since you have submitted documentation to show you have amended your 2016 federal income tax return and reconciled the APTC you received, your case is being sent back to re-run your application and determine whether you are eligible for financial assistance. NYSOH will contact you to obtain updated income information prior to redetermining your eligibility.

If you decide you would like to try to re-enroll in coverage for 2018, NYSOH will help you to apply for a special enrollment period, as open enrollment is now closed for 2018 coverage.

If you are again determined ineligible for financial assistance, you may wish to try updating your application again, once you have confirmation that the IRS has processed your amended 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।

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. 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.

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).