



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

Notice of Decision

Decision Date: April 17, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028476

[REDACTED]

[REDACTED]

On April 5, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's February 6, 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 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).

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Decision

Decision Date: April 17, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028476

[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 were not eligible for advance payments of the premium tax credit or cost-sharing reductions, effective March 1, 2018?

Procedural History

On February 5, 2018, NY State of Health (NYSOH) received your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to your application, stating that you were not eligible for financial assistance but that you can purchase a qualified health plan at full cost.

Also on February 5, 2018, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your ineligibility for financial assistance.

On February 6, 2018, NYSOH issued an eligibility determination notice based on the information contained in the February 5, 2018 application, stating you were newly eligible to purchase a qualified health plan at full cost beginning March 1, 2018. It stated that you do not qualify for Medicaid or the Essential Plan because you do not meet the income limits for those programs and you were not eligible for an advance payment of the premium tax credit (APTC) or cost-sharing reductions because there was missing information about your taxes such as you were married and you indicated that you would be filing separately from your spouse.

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On April 5, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. 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) You testified that you will be filing your 2017 and 2018 income tax returns with a tax filing status of head of household with qualifying individual.
- 2) Your February 5, 2018 application states that you file your taxes as head of household with qualifying individual and that you will claim your two children as dependents.
- 3) You testified that you are currently married but that you have filed for divorce against your husband. You testified that you expect your divorce to be finalized by the end of 2018.
- 4) You testified that you have not lived with your spouse for the past eight years, and have not had personal contact with him outside of a court room for the last seven years. You further testified that you have been estranged from your husband since the beginning of your marriage.
- 5) You testified that you have two children who are currently [REDACTED] and [REDACTED]. They live with you throughout the entire year.
- 6) You testified that you pay the entire cost to maintain your home, that your spouse currently provides no financial support, and is extensively in arrears on child support payments.
- 7) You testified that your expected 2018 income is between \$43,000.00 and \$44,000.00. You testified that this represented a lower estimate than the \$45,000.00 income represented in your February 5, 2018 application, because you [REDACTED] prior to your hearing date, and unable to attend work for a period of time.
- 8) Your application states that you live in Suffolk County.

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

Applicable Law and Regulations

Advance Payments of the Premium Tax Credit

APTC is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable 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)).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
 - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
 - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) 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 is whether NYSOH properly determined that you are not eligible for APTC and cost-sharing reductions.

In the eligibility determination notice issued on February 6, 2018, NYSOH denied an APTC to you because you indicated that you were married but did not plan to file a joint federal income tax return.

Cost-sharing reductions are available only to those who meet the requirements for APTC. Because NYSOH determined that you did not qualify for APTC, NYSOH therefore found that you were also not eligible for cost-sharing reductions.

To qualify for APTC, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the information in the record and your testimony at the hearing, you are still married to your spouse, but have recently filed for divorce, which has not yet been finalized. Also, you confirmed that you do not plan to file a joint federal income tax return with your spouse for both the 2017 and 2018 tax years.

A review of your February 5, 2018 application shows that you stated that you file your taxes as head of household with a qualifying dependent. Your application further stated that your marital status was separated and that you claimed your two minor children as dependents. Your testimony confirms that this is an accurate representation of your tax filing status.

There is an exception, as noted above, that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for APTC.

You credibly testified during the hearing that: (1) you expect to claim your two children as dependents and the children’s primary home is with you, (2) you will pay more than one-half of the cost of keeping up your home for 2018, and (3) your spouse has not been a member of the household for more than six months, and you expect that to remain the case for 2018. Therefore, the record supports a finding that you are a head of household with a qualifying dependent and so qualify to be treated as “not married”.

Therefore, NYSOH erred when it failed to process your February 5, 2018 application as an individual treated as “not married,” and determined that you were ineligible for APTC and cost-sharing reductions on the basis of your tax filing status. The February 6, 2018 eligibility determination notice, finding you to be eligible to purchase a qualified health plan at full cost, effective March 1, 2018, 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 RETURNED to NYSOH for a redetermination of your eligibility as an applicant treated as “not married” as of February 5, 2018.

However, BE AWARE that the IRS is the final decision-maker on how you are allowed to file your taxes. If your testimony was incorrect, it may result in you NOT being eligible to file as “Head of Household” for the 2018 tax year. If this is the case, you should not be treated as “not married” for purposes of obtaining APTC through NYSOH.

Decision

The February 6, 2018 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH for a redetermination of eligibility using a three-person household, residing in Suffolk County with an expected annual income of \$45,000.00, and a tax filing status of head of household with a qualifying dependent, treated as “not married,” as of February 5, 2018. Once your eligibility is redetermined, NYSOH is directed to allow you to enroll into a plan as if that plan was selected on February 5, 2018 or within 60 days from the date of this decision, whichever you so choose.

Effective Date of this Decision: April 17, 2018

How this Decision Affects Your Eligibility

This decision does not decide whether you should get APTC. It simply provides you an opportunity to have your eligibility reconsidered as an applicant filing as head of household with a qualifying dependent, treated as “not married,” which may result in a different eligibility determination than that provided in the February 6, 2018 eligibility determination notice.

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.

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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
- By fax: 1-855-900-5557

Summary

The February 6, 2018 eligibility determination notice is **RESCINDED**.

The case is **RETURNED** to NYSOH for a redetermination of eligibility using a three-person household, residing in Suffolk County with an expected income of

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\$45,000, and a tax filing status of head of household with a qualifying dependent, treated as “not married,” as of February 5, 2017. Once your eligibility is redetermined, NYSOH is directed to allow you to enroll into a plan as if that plan was selected on February 5, 2018 or within 60 days from the date of this decision, whichever you so choose.

This decision does not decide whether you should get APTC. It simply provides you an opportunity to have your eligibility reconsidered as an applicant filing as head of household with a qualifying dependent, treated as “not married,” which may result in a different eligibility determination than that provided in the February 6, 2018 eligibility determination notice.

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 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. ye bɛtumi ama wo obi a okyerɛ 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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