



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

Notice of Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029343



Dear [REDACTED]

On April 18, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 31, 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
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029343



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, your spouse, and your adult child were eligible to purchase a qualified health plan at full cost and ineligible for advanced payments of the premium tax credit, effective February 1, 2018?

Procedural History

According to your NY State of Health (NYSOH) account, you, your spouse, and your children were determined eligible to receive up to \$677.00 per month in advanced payments of the premium tax credit (APTC), effective January 1, 2016. You, your spouse, and your children were enrolled in a qualified health plan (QHP), with the maximum amount of APTC applied to the monthly premium, both effective January 1, 2016.

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

On December 15, 2017, NYSOH issued an eligibility determination notice stating that you, your spouse, and your adult child were newly eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018. This notice further stated that you, your spouse, and your adult child 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

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separately from your spouse, or you received APTC in prior years and NYSOH could not tell if a federal tax return was filed for that year.

On January 13, 2018, NYSOH issued a plan enrollment notice confirming, in part, you, your spouse and your adult child's enrollment in a full pay gold-level QHP, effective February 1, 2018.

On January 30, 2018, NYSOH received an updated application for financial assistance with health insurance.

On January 31, 2018, NYSOH issued an eligibility determination notice stating that you, your spouse, and your adult child were eligible to purchase a QHP at full cost through NYSOH, effective March 1, 2018. This notice further stated that you, your spouse, and your adult child 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 could not tell if a federal tax return was filed for that year.

On February 15, 2018, NYSOH received an updated application for financial assistance with health insurance.

On February 16, 2018, NYSOH issued an eligibility determination notice stating that you, your spouse, and your adult child were eligible for up to \$1,193.00 per month in APTC and eligible for cost-sharing reductions if you enrolled into a silver-level qualified health plan, effective March 1, 2018.

Also on February 16, 2018, NYSOH issued plan enrollment notice confirming your, your spouse and your adult child's enrollment in a gold-level QHP, effective February 1, 2018, with the application of \$1,193.00 per month in APTC applied to the monthly premium, effective March 1, 2018.

On February 26, 2018, you spoke to NYSOH's Accounts Review Unit and requested an appeal insofar as you, your spouse, and your adult child were not found eligible for APTC as of February 1, 2018.

On April 18, 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 left open until May 18, 2018, to allow you time to submit supporting documentation.

On May 10, 2018, you uploaded five documents to your NYSOH account, which contained the supporting documentation. These documents were incorporated into the record as "Appellant's Exhibit #1" and the record was closed.

Findings of Fact

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

- 1) According to your NYSOH account, you, your spouse, and your adult children received APTC in 2016.
- 2) You testified, and your NYSOH application indicates, that you are applying for health insurance for the 2018 health insurance year for yourself, your spouse, and your adult child.
- 3) You testified, and your NYSOH application indicates, that you expect to file a 2018 federal income tax return with the tax status of married filing jointly and you will claim one dependent on that tax return.
- 4) The January 30, 2018 application listed an expected annual household income of \$57,075.00, consisting of \$12,500.00 you earn from your employment, \$35,500.00 your spouse earns from her employment, and \$9,075.00 your adult child earns from his employment.
- 5) Your application states that you, your spouse, and your adult child reside in [REDACTED], NY.
- 6) You testified that you use an accountant to file your tax returns.
- 7) You testified that you did file your 2016 federal tax return, but that you filed your 2016 federal tax return late.
- 8) You testified that you filed your 2016 tax return, on or around [REDACTED], and you filed this tax return with Form 8962.
- 9) After updating your NYSOH account on January 30, 2018, you, your spouse, and your adult child were found eligible to purchase a QHP at full cost through NYSOH. The notice that was issued on January 30, 2018 stated that this was 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 and your APTC was reconciled for that year.
- 10) You uploaded a copy of your 2016 IRS tax transcript to your NYSOH account on May 10, 2018, which indicates that the IRS received your 2016 federal tax return on January 4, 2018 with Form 8962 (see Documents [REDACTED] and [REDACTED]).

- 11) Your NYSOH account indicates that, following an application update on February 15, 2018, you, your spouse, and your adult child were found eligible for up to \$1,193.00 per month in APTC, effective March 1, 2018.
- 12) You NYSOH account indicates that you, your spouse, and your adult child are enrolled in a QHP, effective February 1, 2018, with the maximum amount of APTC applied to your monthly premium as of March 1, 2018.
- 13) You testified that you filed an appeal because you would like your, your spouse, and your adult child's APTC applied retroactively as of February 1, 2018.

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

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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)).

Legal Analysis

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

On January 30, 2018, NYSOH received your household's updated application for health insurance. Based on that application, NYSOH determined that you, your spouse, and your adult 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 with Form 8962, and as a result, did not reconcile your 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 for that year, NYSOH may determine a tax filer ineligible for APTC.

Your NYSOH account indicates that members of your household received APTC in 2016. You testified that you filed your 2016 tax return through the assistance of an accountant. You further testified that you did file your 2016 tax return with Form 8962, but that you filed your 2016 tax return on or around [REDACTED].

You uploaded a copy of your 2016 IRS tax transcript to your NYSOH account on May 10, 2018 (see Documents [REDACTED] and [REDACTED]). The transcript indicates that your 2016 federal tax return was received by the IRS on January 4, 2018, with the requisite information, including Form 8962, which is necessary for the reconciliation of your APTC. Therefore, at the time of your January 30, 2018 application, you had in fact filed your 2016 federal tax return with Form 8962 and the data sources that NYSOH relied upon to make its determination were incorrect.

Since the January 31, 2018 eligibility determination notice is not supported by the record, it is RESCINDED.

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Your case is RETURNED to NYSOH to redetermine your, your spouse, and your adult child's eligibility for financial assistance with health insurance, as of January 30, 2018, for a three-person household with an expected annual household income of \$57,075.00, for coverage for a couple with one dependent under 26, residing in [REDACTED], NY. NYSOH is directed to refer to your 2016 IRS tax transcript for verification that you filed your 2016 tax return with Form 8962 (see Documents [REDACTED] and [REDACTED])

Decision

The January 31, 2018 eligibility determination notice is not supported by the record, it is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your, your spouse, and your adult child's eligibility for financial assistance with health insurance, as of January 30, 2018, for a three-person household with an expected annual household income of \$57,075.00, for coverage for a couple with one dependent under 26, residing in [REDACTED], NY. NYSOH is directed to refer to your 2016 IRS tax transcript for verification that you filed your 2016 tax return with Form 8962 (see Documents [REDACTED] and [REDACTED])

Effective Date of this Decision: May 16, 2018

How this Decision Affects Your Eligibility

This is not a final determination of your, your spouse, or your adult child's eligibility.

Your case is being sent back to NYSOH to redetermine your, your spouse, and your adult child's eligibility for financial assistance with health insurance as of January 30, 2018.

NYSOH will notify you accordingly when this has been completed.

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

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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
- By fax: 1-855-900-5557

Summary

The January 31, 2018 eligibility determination notice is not supported by the record, it is RESCINDED.

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Your case is RETURNED to NYSOH to redetermine your, your spouse's and your adult child's eligibility for financial assistance with health insurance, as of January 30, 2018, for a three-person household with an expected annual household income of \$57,075.00, for coverage for a couple with one dependent under 26, residing in [REDACTED] NY. NYSOH is directed to refer to your 2016 IRS tax transcript for verification that you filed your 2016 tax return with Form 8962 (see Documents [REDACTED] and [REDACTED]).

This is not a final determination of your, your spouse, or your adult child's eligibility.

Your case is being sent back to NYSOH to redetermine your, your spouse, and your adult child's eligibility for financial assistance with health insurance as of January 30, 2018.

NYSOH will notify you accordingly when this has been completed.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

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

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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 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।

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

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