



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

## Notice of Decision

Decision Date: March 27, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026647

[REDACTED]

Dear [REDACTED],

On March 13, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 25, 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: March 27, 2018

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000026647

[REDACTED]

## 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 were eligible to purchase a [REDACTED] health plan at full cost and not eligible for advanced payments of the premium tax credit (APTC), effective January 1, 2018?

## Procedural History

On November 25, 2017, NYSOH issued an eligibility determination notice, based on your November 24, 2017 application, stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018. The notice stated that you were not eligible to receive APTC because APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH could not ascertain if a federal tax return was filed for that year.

On November 25, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a silver-level qualified health plan for a cost of \$408.61 per month, effective January 1, 2018.

On December 21, 2017 you uploaded a copy of your 2016 IRS Tax Transcript (see Document [REDACTED]).

On January 2, 2018, you spoke to NYSOH's Account Review Unit and appealed the November 25, 2017 determination insofar as you were not eligible for APTC.

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On January 18, 2018, NYSOH issued an eligibility determination notice stating you were eligible for APTC for a limited time, effective January 1, 2018. The notice stated you were granted Aid to Continue until a decision was made on your appeal.

Also on January 18, 2018, NYSOH issued a plan enrollment notice confirming your enrollment in a silver-level qualified health plan for a cost of \$49.61, after your APTC of \$359.00 was applied.

On March 13, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for thirty days to allow you time to submit supporting documentation.

On March 13, 2018, NYSOH received a 1-page fax in the form of a copy of your refunded for changes made to your 2016 1040. This document was made part of the record as Appellant's Exhibit 1.

On March 16, 2018, NYSOH received a copy of your 2016 IRS Tax Transcript with amended APTC reconciliation. This document was made part of the record as Appellant's Exhibit 2. The record was then closed as of this date.

## **Findings of Fact**

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

- 1) According to your NYSOH account, you expect to file your federal income taxes as single and will not claim any dependents on that return.
- 2) According to your NYSOH account, APTC was paid on your behalf in 2016.
- 3) You testified that your 2016 tax return was filed on April 15, 2017.
- 4) You updated your application with NYSOH on November 24, 2017.
- 5) You submitted a copy of your 2016 IRS Tax Transcript to NYSOH on December 21, 2017. This tax transcript does not show any reconciliation of APTC. The document was prepared as of December 4, 2017 (see Document [REDACTED]).
- 6) According to your NYSOH account, on November 24, 2017, a response was received from federal sources as a Code [REDACTED], failure to reconcile APTC in 2016.

- 7) You testified you amended your 2016 tax return by sending in a copy of your 1095-A form showing the amount of APTC you were eligible for and what you used in 2016.
- 8) You testified you sent your APTC information and amended your federal tax return around December 21, 2017, and received a refund in the amount of \$36.00. You provided proof of your 2016 refund, dated March 5, 2018 (see Document [REDACTED]).
- 9) You testified that you will be filing your 2017 and 2018 taxes as single.
- 10) You provided a copy of your 2016 IRS Tax Transcript which was prepared on March 16, 2018, and shows the reconciliation of your APTC for that year (see Appellant's Exhibit 2, pp. 5-6).
- 11) You testified your annual expected household income amount of \$26,000.00 for 2018 is correct, as stated in your November 24, 2017 application.
- 12) You reside [REDACTED], NY.

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 with APTC reconciled (Form 8962) 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 were eligible to purchase a qualified health plan at full cost through NYSOH and not eligible for APTC, effective January 1, 2018.

On November 24, 2017, NYSOH received your updated application for financial assistance for 2018. On November 25, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018, and ineligible to receive APTC. The notice stated this was because 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 for that year.

You testified that you filed your 2016 tax return on April 15, 2017. NYSOH records show it received a response code from federal sources as a Code [REDACTED], failure to reconcile APTC in 2016. NYSOH, therefore, could not determine if you reconciled the APTC you were eligible for in 2016 and what was paid on your behalf.

If NYSOH is unable to obtain information that a prior year's tax return has been filed, or if it is determined that APTC was not reconciled for a previous year, NYSOH may not determine a tax filer eligible for APTC. NYSOH must also confirm whether APTC was paid on behalf of the individual for the prior year.

The record shows APTC was paid on your behalf in 2016. You provided a copy of your 2016 IRS Tax Transcript to NYSOH on December 21, 2017. This tax transcript does not show any reconciliation of APTC. The document was prepared as of December 4, 2017 (see Document [REDACTED]). You

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testified you amended your 2016 tax return by sending in a copy of your 1095-A form showing the amount of APTC you were eligible for and what you used in 2016. You explained you sent this amendment around December 21, 2017, and received a refund in the amount of \$36.00.

Since the reconciliation of your APTC was not completed until December 21, 2017, NYSOH's November 25, 2017 eligibility determination notice was proper in finding you were eligible for a qualified health plan at full cost, effective January 1, 2018, and is therefore AFFIRMED.

However, since that determination was issued, you amended your 2016 tax return and provided information which would allow the IRS to verify the amount of APTC you were eligible for, with what was paid on your behalf that year. Therefore, the record now reflects that, based on your 2016 IRS Tax Transcript which was prepared on March 16, 2018, APTC was reconciled on your amended return (see, [REDACTED]). As additional proof, you received a refund for 2016 on March 5, 2018 (see Document [REDACTED]).

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for APTC as of January 1, 2018, based on a one-person household with an annual income amount of \$26,000.00, for an individual residing in [REDACTED], NY.

## **Decision**

The November 25, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for APTC as of January 1, 2018, based on a one-person household with an annual income amount of \$26,000.00, for an individual residing in [REDACTED], NY.

**Effective Date of this Decision:** March 27, 2018

## **How this Decision Affects Your Eligibility**

You were properly determined eligible for a full cost qualified health plan, effective January 1, 2018.

This decision is not a final determination of the amount of APTC you are eligible for as of January 1, 2018.

Your case is being sent back to NYSOH to redetermine your eligibility as of January 1, 2018.

## **If You Disagree with this Decision (Appeal Rights)**

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 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

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- By fax: 1-855-900-5557

## **Summary**

The November 25, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for APTC as of January 1, 2018, based on a one-person household with an annual income amount of \$26,000.00, for an individual residing in [REDACTED], NY.

You were properly determined eligible for a full cost qualified health plan, effective January 1, 2018.

This decision is not a final determination of the amount of APTC you are eligible for as of January 1, 2018.

Your case is being sent back to NYSOH to redetermine your eligibility as of January 1, 2018.

## **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 1-855-355-5777 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)**

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

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