



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

## Notice of Decision

Decision Date: April 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012466

[REDACTED]

Dear [REDACTED]

On January 26, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 8, 2016 and October 12, 2016 eligibility determination notices.

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.

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: April 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012466

[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 you were ineligible for advance payments of the premium tax credit effective, November 1, 2016?

## Procedural History

On November 22, 2015, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to receive advance payments of the premium tax credit (APTC) to help pay for your health insurance coverage, effective January 1, 2016.

On December 6, 2015, NYSOH issued an enrollment confirmation notice stating you and your spouse were enrolled in a qualified health plan with APTC, effective January 1, 2016.

On September 29, 2016, NYSOH received the updated application for health insurance submitted on behalf of you and your spouse.

Also on September 29, 2016, NYSOH issued an enrollment confirmation notice stating you and your spouse were enrolled in a qualified health plan with no APTC applied to the monthly premiums.

On October 8, 2016, NYSOH issued an eligibility determination notice, based on your September 29, 2016 updated application, stating you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective

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November 1, 2016. The notice further stated you and your spouse were not eligible for a tax credit, because you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

On October 11, 2016, NYSOH received an update to your application for health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination notice stating you and your spouse were not eligible for financial assistance, including APTC to help pay for your health insurance coverage.

Also on October 11, 2016, you spoke to NYSOH's Account Review Unit and appealed this determination insofar as you and your spouse were no longer eligible to receive APTC.

On October 12, 2016, NYSOH issued an eligibility determination notice based on the information contained in the October 11, 2016 application update. The notice stated you and your spouse 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 was unable to tell if a federal tax return was filed for that year. This eligibility was effective November 1, 2016.

On January 26, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open for you to submit supporting documentation. On February 3, 2017, a copy of a signed 2015 tax return for you and your spouse was uploaded to your NYSOH account.

## **Findings of Fact**

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

- 1) An updated application for financial assistance with health insurance was submitted on behalf of you and your spouse on September 29, 2016.
- 2) You and your spouse were determined ineligible for APTC, as of November 1, 2016. It appears, based on information in your account and from state and federal data sources, that you were found ineligible because you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.
- 3) You testified, and your account confirms, you received APTC in 2015.
- 4) You testified your APTC was revoked for the months of October and November 2016.

- 5) You testified, and your account confirms, you and your spouse have been enrolled in the Essential Plan since December 1, 2016.
- 6) You testified you paid the full premium amount to your health plan for the month of October 2016.
- 7) You testified you did not pay the premium to the health plan for the month of November 2016.
- 8) You testified you are seeking reinstatement of your APTC for the month of October 2016.
- 9) You testified you and your spouse file your tax returns with a tax filing status of married filing jointly.
- 10) You testified that you and your spouse were granted an extension to file your 2015 tax return, before the tax filing deadline, on or about April 15, 2016.
- 11) On January 28, 2017, you uploaded a copy of your prepared 2015 tax return for you and your spouse with "Preparer Electronic Filing Instructions" attached, indicating a request for an extension had been filed electronically and accepted April, 17, 2016.
- 12) On February 3, 2017, you uploaded a copy of a 2015 tax return for you and your spouse. The document was signed by your tax preparer on October 12, 2016.
- 13) As of April 12, 2017, the Appeals Unit still cannot confirm that you filed a tax return in 2015, using only those methods approved by the IRS.

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

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 200% 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)).

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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)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individual's 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 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)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined you and your spouse were ineligible for APTC effective November 1, 2017.

On September 29, 2016, NYSOH received the updated application for health insurance submitted on behalf of you and your spouse.

Also on September 29, 2016, NYSOH could not confirm through federal and state data sources that you and your spouse had filed a tax return for 2015.

Based on this information, on October 8, 2016, NYSOH issued an eligibility redetermination notice stating you and your spouse were eligible to purchase a full cost qualified health plan through NYSOH, effective November 1, 2016. The reason stated was because you said you would not be filing a tax return or were

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married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

Since there is nothing in your account to indicate that you did not intend to file a tax return or that you would be filing as married, filing separately, it must be concluded that you were found ineligible for APTC because NYSOH could not confirm that you filed a tax return for a year during which you received APTC.

Pursuant to the above cited regulations, 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.

You testified, and your account confirms, you and your spouse received APTC in 2015. You testified you and your spouse were granted an extension in which to file your 2015 tax return. Documentation submitted corroborates this testimony. Additionally, you submitted a copy of a 2015 tax return for you and your spouse signed by the tax preparer on October 12, 2016. Accordingly, the evidence establishes you and your spouse filed your 2015 tax return late; however, prior to the extended filing deadline in October 2016.

However, as discussed above, the eligibility determination at issue was based on a September 29, 2016 updated application. Given the evidence that your 2015 tax return was not signed by the tax preparer until October 12, 2016, the evidence establishes the subject eligibility determination was issued prior to the date your 2015 tax return was filed. Accordingly, at the time of the determination, you and your spouse had not yet filed your 2015 tax return and, therefore, the October 8, 2016 eligibility determination finding you and your spouse ineligible for APTC was supported by the record.

However, you testified that you had filed your 2015 tax return, and you submitted a copy of your signed 2015 tax return establishing the return was filed in October 2016, prior to the extended deadline as permitted by the IRS. Therefore, the October 8, 2016 eligibility determination notice is no longer supported by the now developed record.

Since the October 8, 2016 eligibility determination is no longer supported by the now developed record it must be RESCINDED.

The subsequent eligibility redetermination issued on October 12, 2016 is also RESCINDED since it is no longer supported by the record.

Your case is RETURNED to NYSOH to redetermine eligibility for you and your spouse, as of September 29, 2016.

## **Decision**

The October 8, 2016 eligibility determination is RESCINDED.

The October 12, 2016 eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to redetermine eligibility for you and your spouse, as of September 29, 2016.

**Effective Date of this Decision:** April 17, 2017

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

You will receive a new determination, reflecting updated eligibility for you and your spouse for financial assistance with health insurance as of September 29, 2016.

This decision does not affect subsequent eligibility determinations.

## **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

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).



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 October 8, 2016 eligibility determination is RESCINDED.

The October 12, 2016 eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to redetermine eligibility for you and your spouse, as of September 29, 2016.

You will receive a new determination, reflecting updated eligibility for you and your spouse for financial assistance with health insurance as of September 29, 2016.

This decision does not affect subsequent eligibility determinations.

### **Legal Authority**

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

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**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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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