



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

## Notice of Decision

Decision Date: April 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013876

[REDACTED]

Dear [REDACTED],

On April 4, 2017, you and your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health's September 18, 2016 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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DEPARTMENT OF HEALTH  
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Albany, NY 12211

## Decision

Decision Date: April 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013876

[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 your eligibility for advance payments of the premium tax credit ended effective October 1, 2016?

## Procedural History

On March 15, 2016, NY State of Health (NYSOH) received your application for financial assistance. Also on this date, you uploaded three paystubs dated March 4, 2016, March 11, 2016 and March 18, 2016.

On March 16, 2016, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$213.00 per month in advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective April 1, 2016. The notice further directed you to provide documentation confirming your income before June 13, 2016.

Also on March 16, 2016, NYSOH issued a notice confirming your enrollment in qualified health plan with APTC and cost-sharing reductions, effective April 1, 2016.

On March 30, 2016, NYSOH issued a notice requesting more income documentation to determine your eligibility because the documentation you submitted was insufficient to resolve the inconsistency.

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On April 27, 2016, the March 30, 2016 notice requesting additional income documentation was returned as undeliverable.

On September 18, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective November 1, 2016.

On September 18, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On September 30, 2016, you faxed four paystubs dated September 16, 2016, September 23, 2016, September 30, 2016, and October 7, 2016 to NYSOH.

On October 12, 2016, the faxed paystubs were uploaded to your NYSOH account.

On November 30, 2016, your NYSOH account was updated.

On December 1, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$222.00 per month in APTC, effective January 1, 2017.

On December 7, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC, effective October 1, 2016.

On April 4, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During this hearing, [REDACTED], acted as your Authorized Representative and assisted you with your testimony. 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 submitted an application to NYSOH for financial assistance on March 15, 2016.
- 2) Your Authorized Representative testified, and the record reflects, that on March 15, 2016 you uploaded three paystubs dated March 4, 2016, March 11, 2016 and March 18, 2016.

- 3) You receive correspondents from NYSOH through regular U.S. mail.
- 4) The March 30, 2016 notice requesting more income documentation was stamped "Return Mail, April 27, 2016" and was uploaded to your NYSOH account by a NYSOH representative on May 31, 2016 (document [REDACTED]).
- 5) The returned March 30, 2016 notice requesting more income documentation had a mailing address as follows:  
  
[REDACTED]
- 6) Your Authorized Representative testified that your mailing address is:  
  
[REDACTED]
- 7) Your Authorized Representative testified that your address has not changed since initially applying for financial assistance in March 2016.
- 8) Your NYSOH account indicates that on September 17, 2016 your application was run and you were found no longer eligible for APTC as of October 1, 2016.
- 9) Your Authorized Representative testified that you did not know that you needed to submit additional documentation of your income until you received a billing statement in September 2016 from your qualified health plan for the total cost of your healthcare plan without any financial assistance deducted.
- 10) Your Authorized Representative testified that he contacted NYSOH on September 27, 2016 to attempt to resolve the issue. He further testified that he was told during this phone call that your financial assistance had been removed because you did not submit four paystubs to your NYSOH account to prove your household income.
- 11) Your Authorized Representative testified that he attempted to fax your four paystubs on September 30, 2016 but ran into technical issues.
- 12) The record reflects that the four paystubs faxed on September 30, 2016 were uploaded to your NYSOH account on October 18, 2016.

- 13) You did not receive APTC for the months of October 2016, November 2016, and December 2016.
- 14) Your Authorized Representative testified that you paid the post subsidy premium amount to your qualified health plan, however, your qualified health plan is now directing you to pay the unpaid premium amounts from October 2016, November 2016 and December 2016.
- 15) Your Authorized Representative testified that you are seeking payment of your APTC amount to your qualified health plan for the months of October 2016, November 2016, and December 2016.

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 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)).

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 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)).

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 in order 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

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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 that your eligibility for APTC ended effective October 1, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination notice issued on March 16, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before June 13, 2016. Your record reflects that three paystubs dated March 4, 2016, March 11, 2016 and March 18, 2016 were uploaded to your account on March 15, 2016.

On March 30, 2016, NYSOH issued a notice requesting additional documentation of income because the information you gave was insufficient to resolve the inconsistency. This notice was addressed to a mailing address: [REDACTED]. Your authorized representative testified, and the record reflects, that your mailing address as of March 30, 2016 was: [REDACTED]. As a result of the missing apartment number, the notice that was sent on March 30, 2016 was returned to NYSOH as undeliverable.

Therefore, NYSOH did not properly notify you that there was an inconsistency in your account and that additional documentation was needed to confirm the income you listed in the account. Had the March 30, 2016 notice requesting you to submit additional income documentation been delivered to you, you could

have presumably cured the inconsistency on your account by submitting additional income documentation by June 14, 2016.

Accordingly, your eligibility for APTC should not have ended as of October 1, 2016, the month following the September 18, 2016 eligibility redetermination notice. Therefore, the September 18, 2016 eligibility determination notice is **RECIINDED**.

Your case is **RETURNED** to NYOSH to reinstate your APTC for the months of October 2016, November 2016, and December 2016.

## **Decision**

The September 18, 2016 notice of eligibility determination is **RESCINDED**.

Your case is **RETURNED** to NYOSH to reinstate your APTC for the months of October 2016, November 2016, and December 2016.

**Effective Date of this Decision:** April 11, 2017

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

Your APTC should not have been terminated for the months of October 2016, November 2016 or December 2016.

Your case is also being sent back to NYSOH to ensure your APTC is applied for the months of October 2016, November 2016 and December 2016.

This decision does not affect your current eligibility.

## **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 September 18, 2016 notice of eligibility determination is **RESCINDED**.

Your APTC should not have been terminated for the months of October 2016, November 2016 or December 2016.

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 is RETURNED to NYOSH to reinstate your APTC for the months of October 2016, November 2016, and December 2016.

Your case is also being sent back to NYSOH to ensure your APTC is applied for the months of October 2016, November 2016 and December 2016.

This decision does not affect your current eligibility.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

[REDACTED]

[REDACTED]

## 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&etumi ama wo obi a okyerε 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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