



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

## Notice of Decision

Decision Date: April 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013877

[REDACTED]

Dear [REDACTED]

On March 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 11, 2016 and November 19, 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.

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 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013877



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that you and your spouse were ineligible for advance payments of the premium tax credit (APTC) for November and December 2016?

Did NYSOH properly determine that you and your spouse were ineligible for APTC, effective January 1, 2017?

## Procedural History

On August 16, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to receive up to \$246.00 per month in APTC, effective September 1, 2016.

Also on August 16, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a bronze level qualified health plan with \$659.12 premium after \$246.00 in APTC was applied. Your enrollment was effective as of September 1, 2016.

On October 7, 2016, NYSOH received your updated application for financial assistance.

On October 11, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost. The notice stated that you were not eligible to receive APTC because

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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 October 16, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a bronze level qualified health plan with \$905.12 premium with \$0.00 in APTC applied.

On November 18, 2016, NYSOH received an update to your application for health insurance for the 2017 coverage year.

On November 19, 2016, NYSOH issued an eligibility determination notice based on the information contained in the November 18, 2016 application update. The notice stated that 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 January 1, 2017.

On November 19, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a bronze level qualified health plan with \$1,138.28 premium with \$0.00 in APTC applied. Your enrollment was effective January 1, 2017.

On December 7, 2016, you spoke to NYSOH's Account Review Unit and appealed the October 11, 2016 eligibility determination insofar as it ended your and your spouse's eligibility for APTC for 2016 and the November 19, 2016 eligibility determination insofar as it found you and your spouse ineligible for APTC in 2017.

On March 23, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until April 20, 2017 to allow you time to submit your IRS Transcript.

On April 3, 2017, you provided your IRS Transcript reflecting that you and your spouse had filed a 2015 tax return with the IRS on October 17, 2016 (██████████). This document was 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) You and your spouse expect to file your 2017 federal income tax return as married filing jointly, and claim one dependent.

- 2) You testified that your annual expected household income is \$60,995.00, consisting of income you and your spouse earn through self-employment.
- 3) You and your spouse were determined not eligible for APTC as of November 1, 2016. This was 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.
- 4) Your NYSOH account reflects that APTC was paid on behalf of you and your spouse in 2015.
- 5) You testified that you are seeking reinstatement of APTC for you and your spouse.
- 6) You testified that you and your spouse filed for an extension for the filing of your 2015 federal tax return.
- 7) On April 3, 2017, you submitted to NYSOH a copy your 2015 IRS Transcript which reflects that the IRS received your and your spouse's 2015 income tax return on October 17, 2016 ( [REDACTED] and [REDACTED] ).
- 8) The record reflects that you and your spouse reside in [REDACTED].

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)).

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)).

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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)).

### End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you and your spouse were ineligible for APTC for November and December 2016.

On August 16, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to receive up to \$246.00 per month in APTC, effective September 1, 2016. You and your spouse subsequently enrolled in a bronze level qualified health plan with \$246.00 of APTC applied to your monthly premium.

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On October 7, 2016, NYSOH received an update to your application for health insurance.

Based on this information, on October 11, 2016, NYSOH issued an eligibility redetermination notice stating that 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 NYSOH had received information that APTC had been paid on your behalf for a year in which you did not file a tax return.

According to your 2015 IRS Transcript, the IRS received your and your spouse's 2015 income tax return on October 17, 2016

If NYSOH is unable to obtain information that a prior year's tax return has been filed, NYSOH may not determine a tax filer eligible for APTC, if APTC was paid on the tax filer's behalf in a previous year.

As you received APTC in 2015 and your 2015 tax return had not been received by the IRS at the time of your October 7, 2016 application or the October 11, 2016 eligibility determination, NYSOH properly determined that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, and ineligible to receive APTC or cost-sharing reductions.

Therefore, the October 11, 2016 eligibility determination notice is correct and is **AFFIRMED**.

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

On November 18, 2016, NYSOH received an update to your application for health insurance for the 2017 coverage year.

Based on that application, on November 19, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a full cost qualified health plan through NYSOH, effective January 1, 2017 because NYSOH had received information that APTC had been paid on your behalf for a year in which you did not file a tax return.

However, the information regarding your previous year's tax filings that NYSOH received on November 18, 2016 was erroneous. As stated above, based on your 2015 IRS Transcript, you filed your 2015 tax return on October 17, 2016.

Therefore, NYSOH's November 19, 2016 eligibility determination notice is **RESCINDED** because supporting documentation shows that at that time a 2015 tax return had been filed for you and your spouse.

Your case is **RETURNED** to NYSOH to redetermine your and your spouse's eligibility for 2017, based on a household of three people, residing in [REDACTED]

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██████████, with an annual expected income of \$60,995.00. If NYSOH's system still detects that you have failed to file a 2015 income tax return, NYSOH is directed to refer to the IRS Transcript you submitted confirming filing (██████████ and ██████████).

Regarding your and your spouse's eligibility for APTC in 2016, no further action by NYSOH is required as of this Decision because it is past the end of the 2016 policy year. Instead, at the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. The amount of APTC to which you and your spouse were entitled can be reconciled at the time you and your spouse file a 2016 federal tax return.

## **Decision**

The October 11, 2016 eligibility determination is AFFIRMED.

The November 19, 2016 eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your and your spouse's eligibility as of January 1, 2017, based on a household of three people, residing in Kings County, with an annual expected income of \$60,995.00. If NYSOH's system still detects that you have failed to file a 2015 income tax return, NYSOH is directed to refer to the IRS Transcript you submitted confirming filing (██████████ and ██████████).

**Effective Date of this Decision:** April 26, 2017

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

Your and your spouse's APTC for the months of November 2016 and December 2016 can be reconciled when you file your federal income tax return for 2016.

You will receive a new determination reflecting your and your spouse's updated eligibility for financial assistance for 2017.

## **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

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).

- By fax: 1-855-900-5557

## **Summary**

The October 11, 2016 eligibility determination is AFFIRMED.

Your and your spouse's APTC for the months of November 2016 and December 2016 can be reconciled when you file your federal income tax return for 2016.

The November 19, 2016 eligibility determination is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your and your spouse's eligibility as of January 1, 2017, based on a household of three people, residing in Kings County, with an annual expected income of \$60,995.00. If NYSOH system still detects that you have failed to file a 2015 income tax return, NYSOH is directed to refer to the IRS Transcript you submitted confirming filing ( [REDACTED] and [REDACTED] ). You will receive a new determination reflecting your and your spouse's updated eligibility for financial assistance for 2017.

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

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