



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

## Notice of Decision

Decision Date: May 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014105

[REDACTED]

Dear [REDACTED],

On March 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 19, 2016 and December 14, 2016 eligibility determinations.

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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: May 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014105



## 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 eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, and not eligible for advanced payments of the premium tax credit (APTC), effective December 1, 2016?

Did NYSOH properly determine that you and your spouse were eligible to purchase a QHP at full cost, and not eligible for APTC, effective January 1, 2017?

## Procedural History

On December 30, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were newly conditionally eligible to receive up to \$474.00 per month in APTC, and eligible to receive cost-sharing reductions if you enrolled in a silver-level QHP, effective February 1, 2016. The notice further stated that you needed to provide documentation to confirm your income by March 28, 2016. You and your spouse were enrolled into a QHP, with an enrollment start date of January 1, 2016.

On March 28, 2016, you updated your NYSOH application.

On March 29, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were conditionally eligible to receive up to \$474.00 per month in APTC, and eligible for cost-sharing reductions, effective May 1, 2016.

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The notice further stated that you needed to provide documentation to confirm your income by June 26, 2016.

On September 17, 2016, NYSOH's system redetermined your eligibility, and on September 18, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were newly eligible to purchase a QHP at full cost, effective November 1, 2016. This was because NYSOH had not received the income documentation needed to verify the income listed in your application, and the date to submit this documentation had passed.

Also on September 18, 2016, NYSOH issued a notice of enrollment confirmation, confirming that you and your spouse were still enrolled in your QHP, however, you were now responsible for the full cost of the premium as of November 1, 2016.

On October 18, 2016, you updated your NYSOH account.

On October 19, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a QHP at full cost, effective December 1, 2016. The notice further stated that you and your spouse were not eligible for a tax credit because NYSOH was missing information about your taxes.

On November 27, 2016, NYSOH issued a disenrollment notice stating that you and your spouse were disenrolled from your QHP, effective December 31, 2016.

On December 13, 2016, you updated your NYSOH account.

On December 14, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017. The notice also stated that you and your spouse were not eligible for tax credits because NYSOH was missing information about your taxes.

On December 16, 2016, NYSOH issued a notice of enrollment confirmation, confirming your, and your spouse's, enrollment in a full cost silver-level QHP, with an enrollment start date of January 1, 2017.

On December 17, 2016, you spoke to NYSOH's Account Review Unit and appealed the October 19, 2016 and December 14, 2016 eligibility determination notices, insofar as you and your spouse were not eligible to receive APTC.

On March 24, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open for 60 days at the end of the hearing to give you time to submit an IRS transcript of your 2014 federal income tax return.

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On May 19, 2017, you faxed an eleven-page document NYSOH's Appeals Unit. The record is now closed.

## Findings of Fact

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

- 1) Your NYSOH account reflects that APTC was paid on your and your spouse's behalf in 2014 and 2015.
- 2) You testified that you timely filed your 2014 tax return, but that it was rejected by the IRS.
- 3) You testified that your accountant did not immediately let you know that there was a problem, and did not take care of the problem right away.
- 4) You testified that you filed an amended 2014 tax return toward the end of 2016, and that you sent it by certified mail. You testified that the return receipt from that mail is dated December 23, 2016.
- 5) You testified that you have not tried updating your NYSOH application since December 2016 because you have been waiting for your appeal.
- 6) You testified that you and your spouse are currently enrolled in your QHP coverage, and paying approximately \$1,300.00 per month for that plan.
- 7) Your NYSOH account confirms that you and your spouse are currently enrolled in a QHP at full cost.
- 8) You testified that, although you did not receive tax credits for November and December 2016, you and your spouse remained enrolled in your QHP at full cost during those two months.
- 9) You testified that you are looking to be eligible for APTC for November and December 2016, as well as for the 2017 coverage year.
- 10) After the hearing, you were given the opportunity to submit a copy of your 2014 IRS tax transcript. On May 19, 2017, you faxed an eleven-page document to NYSOH, consisting of the following:
  - a. A one-page bar-coded fax cover sheet;
  - b. A one-page cover letter addressed to you from the IRS;
  - c. A seven-page IRS tax return transcript for the 2014 tax year showing that your 2014 tax return was received by the IRS on December 20, 2016;

- d. A copy of the first page of the Notice of Telephone Hearing from NYSOH;
  - e. A second copy of the bar-coded fax cover sheet;
- The above documents are collectively marked and entered into the record as “Appellant’s Exhibit One.”

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 QHP 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 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)).

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## Redetermination During a Benefit Year

When a redetermination is issued after a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible to purchase a QHP through NYSOH only at full cost, and not eligible for APTC, effective December 1, 2016.

On September 17, 2016, NYSOH's system redetermined your eligibility because income documentation that was due by June 26, 2016 was never received. The next day, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective November 1, 2016, and ineligible to receive APTC. This was because NYSOH had not received income documentation to confirm the information in your application. You updated your NYSOH account on October 18, 2016, and on October 19, 2016, NYSOH again issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective December 1, 2016. This was because NYSOH was missing information about your taxes.

You testified that you had initially filed your 2014 tax return in a timely manner, but that it was rejected by the IRS, and your accountant did not inform you of this for some time. You testified that you filed an amended return sometime toward the end of 2016, and that you have a return receipt from the Post Office with a date of December 23, 2016. After the hearing, you faxed a copy of an IRS tax transcript for the 2014 filing year to NYSOH which indicates that your return was received by the IRS on December 20, 2016 (Appellant's Exhibit One, page 3).

At the time of your October 2016 application, NYSOH had not received information from the IRS that your household's tax return for 2014 had been properly filed. 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.

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You testified that you were not aware that there was a problem with your 2014 tax return because your accountant did not inform you of it right away. Nevertheless, this does not change the fact that you had not filed your tax return as of October 18, 2016, when you updated your application for financial assistance. As NYSOH did not have the information necessary to find you eligible for APTC, you and your spouse were correctly found eligible to purchase a QHP only at full cost, effective December 1, 2016. Likewise, your APTC cannot be reinstated for the month of November 2016 for the same reason.

The second issue under review is whether NYSOH properly determined that you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017.

You updated your NYSOH application again on December 13, 2016, and NYSOH issued an eligibility determination on December 14, 2016 stating that you were eligible to purchase a full cost QHP, effective January 1, 2017 because NYSOH was missing information about your taxes. The IRS had not yet received your 2014 income tax return at that time; your documentation showed the return had been received by the IRS on December 20, 2016.

Therefore, not only did NYSOH not have the information necessary to find you eligible for APTC, you had not yet filed the 2014 tax return, and you and your spouse were correctly found eligible to purchase a QHP only at full cost, effective January 1, 2017.

You testified at the hearing that you and your spouse are currently enrolled in a full-cost QHP through NYSOH. You testified that you have not updated your NYSOH account because you have been waiting for the outcome of this appeal.

Since the record now shows that the IRS received your 2014 tax return by December 20, 2016, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, utilizing the information in your December 13, 2016 application and the transcript you submitted. If further information is needed to determine your eligibility, NYSOH is directed to promptly inform you in writing of any documentation that is required.

Additionally, when APTC is recalculated mid-year, NYSOH is required to prorate monthly amounts to reflect APTC that has (or has not) already been received, to ensure that the APTC you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2017 tax year.

If you and your spouse are found eligible for APTC, the amount of APTC that you receive monthly for the remainder of the year will be prorated, based on the fact that your total tax credit is being applied over a period of less than twelve months, pending proof that you have paid your full QHP premiums each month, beginning with January 2017.

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## **Decision**

The October 19, 2016 eligibility determination is AFFIRMED.

The December 14, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to determine your and your spouse's eligibility for financial assistance, utilizing the information from your December 13, 2016 application.

If you and your spouse are found eligible for APTC, NYSOH is directed to prorate your monthly APTC amount to ensure that the APTC you receive is as close as possible to the overall tax credit you will be entitled to at the end of 2017, pending proof that you have paid your full monthly QHP premiums beginning with January 2017.

NYSOH will contact you to secure proof that you have paid your monthly 2017 QHP premiums in full to this point.

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

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

You and your spouse were eligible to purchase a QHP at full cost, in November and December 2016 because NYSOH did not have the necessary tax information to find you and your spouse eligible for APTC.

NYSOH properly determined that you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017, based on the fact that your IRS tax transcript shows that your 2014 federal tax return had not been received by the IRS as of December 13, 2016, the date on which you updated your NYSOH account.

However, since the record now shows that your 2014 tax return was received by the IRS on December 20, 2016, your case is RETURNED to NYSOH to redetermine your and your spouse's eligibility for APTC in 2017, utilizing the information in your December 13, 2016 application. If your income or other information has changed since you updated your application in December 2016, you must immediately contact NYSOH to update your application.

Additionally, if you are found eligible for APTC, NYSOH will prorate the monthly APTC amounts that you receive so that the amount you receive from not until the end of the year is equivalent to the overall tax credit you will be entitled to when you file your 2017 tax return.

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 eligibility for prorated APTC is dependent on verification that you paid your full premiums for each month of 2017, beginning with January, and through the present month.

## **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  
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 19, 2016 eligibility determination is AFFIRMED.

The December 14, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to determine your and your spouse's eligibility for financial assistance, utilizing the information from your December 13, 2016 application.

If you and your spouse are found eligible for APTC, NYSOH is directed to prorate your monthly APTC amount to ensure that the APTC you receive is as close as possible to the overall tax credit you will be entitled to at the end of 2017, pending proof that you have paid your full monthly QHP premiums beginning with January 2017.

NYSOH will contact you to secure proof that you have paid your monthly 2017 QHP premiums in full to this point.

You and your spouse were eligible to purchase a QHP at full cost, in November and December 2016 because NYSOH did not have the necessary tax information to find you and your spouse eligible for APTC.

NYSOH properly determined that you and your spouse were eligible to purchase a QHP at full cost, effective January 1, 2017, based on the fact that your IRS tax transcript shows that your 2014 federal tax return had not been received by the IRS as of December 13, 2016, the date on which you updated your NYSOH account.

However, since the record now shows that your 2014 tax return was received by the IRS on December 20, 2016, your case is RETURNED to NYSOH to redetermine your and your spouse's eligibility for APTC in 2017, utilizing the information in your December 13, 2016 application. If your income or other

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information has changed since you updated your application in December 2016, you must immediately contact NYSOH to update your application.

Additionally, if you are found eligible for APTC, NYSOH will prorate the monthly APTC amounts that you receive so that the amount you receive from not until the end of the year is equivalent to the overall tax credit you will be entitled to when you file your 2017 tax return.

Your eligibility for prorated APTC is dependent on verification that you paid your full premiums for each month of 2017, beginning with January, and through the present month.

## **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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