



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: AP000000014626



Dear [REDACTED],

On April 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 17, 2016 eligibility determination.

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  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: April 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014626



## 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 newly eligible to purchase a qualified health plan at full cost through NYSOH, effective November 1, 2016?

## Procedural History

On December 4, 2015, NYSOH issued a notice of eligibility determination stating that you and your daughter were eligible to receive up to \$452.00 per month in advanced payments of the premium tax credit (APTC) and cost-sharing reductions if you selected a silver level qualified health plan for enrollment, effective January 1, 2016.

Also on December 4, 2015, NYSOH issued a notice of enrollment confirmation, confirming your and your daughter's enrollment in your family qualified health plan, effective January 1, 2016, and that your APTC would be applied to your monthly premium, effective January 1, 2016.

On September 16, 2016, NYSOH issued a notice that it was time to renew your and your daughter's health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by October 15, 2016 or you might lose the financial assistance you were currently receiving.

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No updates were made to your account by October 15, 2016.

On October 17, 2016, NYSOH issued an eligibility determination notice stating that you and your daughter were eligible to purchase a qualified health plan at full cost through NYSOH, effective November 1, 2016. The notice also stated that you were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

Also on October 17, 2016, NYSOH issued a notice of enrollment confirming your and your daughter's enrollment in a full cost family qualified health plan as of November 1, 2016.

On November 13, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2016 or you might lose the financial assistance you were currently receiving.

On November 21, 2016, you updated your application for financial assistance with health insurance and removed your daughter from your account.

On November 22, 2016, NYSOH issued a notice of eligibility determination, based on the November 21, 2016 application, stating that you were eligible for APTC of up to \$102.00 per month for a limited time, effective January 1, 2017. This notice directed you to submit proof of your household's income by February 19, 2017 in order to confirm your eligibility.

Also on November 22, 2016, NYSOH issued a notice of enrollment confirming your enrollment in a qualified health plan, effective January 1, 2017, and that your APTC would be applied to your monthly premium as of January 1, 2017.

On January 5, 2017, you spoke to NYSOH's Account Review Unit and requested to appeal this determination insofar as you did not have any APTC applied to your premiums for November 2016 and December 2016.

On April 11, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. 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 testified that you are seeking to have your APTC reinstated for November 2016 and December 2016.
- 2) Your NYSOH account reflects that on December 4, 2015 NYSOH determined you and your daughter eligible for up to \$452.00 per month in APTC as well as cost-sharing reductions, effective January 1, 2016. You and your daughter were enrolled into a family qualified health plan, effective January 1, 2016.
- 3) You testified that you paid premiums for November 2016 and December 2016, but these premium payments were based on the previous premium amount with APTC applied, not the full pay premium amount.
- 4) You testified that you did not receive a disenrollment notice from your plan advising that your enrollment in your qualified health plan terminated as of November 30, 2016.
- 5) You testified that you sometimes receive paper notices from NYSOH. However, your NYSOH account reflects that you have elected to receive alerts via electronic mail.
- 6) You testified that you do not frequently check your e-mail account.
- 7) You testified that you did not receive the September 16, 2016 renewal notice telling you that you needed to update your application in order to renew your eligibility.
- 8) The record reflects that on October 16, 2016, NYSOH redetermined your eligibility for financial assistance with health insurance.
- 9) You testified that you did not know that you needed to update your account until you received a bill dated [REDACTED] and due [REDACTED] which had a much higher premium amount due.
- 10) You testified that you thought you had until December 2016 to renew your coverage.
- 11) You testified that your plan is billing you for coverage in December 2016.

- 12) Your NYSOH account indicates that your enrollment in your qualified health plan for 2016 terminated on November 30, 2016 as a result of your renewal application.
- 13) You testified that you have already filed your 2016 tax return and that you did not claim your daughter as a dependent on that return, however, you plan to file an amended return for 2016 wherein you will claim your daughter as a dependent.
- 14) You testified that you called to renew your coverage for 2017 sometime around November 15, 2016, and it was at that time that you requested that your daughter be removed from your account, as you would no longer be claiming her as a dependent for 2017. Your NYSOH account reflects that this took place on November 21, 2016, at which time you selected an individual qualified health plan for 2017.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

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)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

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)).

### Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

### End of Tax Year Reconciliation

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. 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).

### Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

### Enrollment in a Qualified Health Plan

NY State of Health (NYSOH) must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)(1)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)).

### Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to

another plan. This is generally permitted when one of the following triggering events occur:

- (1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:
  - (a) Health insurance considered to be minimum essential coverage;
  - (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
  - (c) Pregnancy-related coverage; or
  - (d) Medically needy coverage.
- (2) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care; or
- (3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status; or
- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or
- (5) The enrollee or dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee; or
- (6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or has a change in eligibility for cost-sharing reductions; or
- (7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move; or
- (8) The qualified individual is an Indian, as defined by section 4 of the Indian Health Care Improvement Act, and may enroll in a QHP or change from one QHP to another one time per month; or

- (9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;

(45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective November 1, 2016.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On September 16, 2016, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you qualify for financial help with paying for your health coverage. You were asked to update the information in your account by October 15, 2016 or the financial help you were receiving might end.

Because there was no timely response to this notice, NYSOH redetermined your eligibility on October 16, 2016, and determined that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective November 1, 2016.

You testified that you did not receive the September 16, 2016 renewal notice from NYSOH telling you that you needed to update information in your NYSOH account. You testified that you receive some notices from NYSOH via regular mail, however, the record reflects that you receive alerts regarding notices from NYSOH electronically. You also testified that you do not frequently check your e-mail.

As such, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

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).

Therefore, NYSOH was required to redetermine your eligibility on October 16, 2016.

However, changes in eligibility from a redetermination that is the result of a renewal notice are not to take effect until the first day of the coverage year or in accordance with the rules regarding effective dates for qualified health plans, whichever is later.

Typically, where a redetermination takes place affecting APTC, NYSOH must implement any changes in eligibility for APTC effective as of the first day of the month following the date of the notice.

In the present instance, the change in your eligibility, which was the result of the renewal notice and eligibility redetermination, should have taken place the first day of the coverage year, which would be January 1, 2017, or the first day of the month following the date of notice, which would be November 1, 2016, whichever was later.

As January 1, 2017 is later than November 1, 2016, the change to your eligibility which was the result of the September 16, 2016 renewal notice and October 16, 2016 eligibility redetermination, should not have been made effective November 1, 2016.

Therefore, the October 17, 2016 eligibility redetermination notice and October 17, 2016 enrollment confirmation notice are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your APTC of up to \$452.00 per month for the month of November 2016.

The record reflects that on November 21, 2016, you updated your NYSOH account and removed your daughter from your account.

You testified that when you filed your tax return for 2016 you did not claim your daughter as a dependent, however, you will be filing an amended tax return for 2016 wherein you will be claiming your daughter as a dependent. Therefore, in 2016 you were in a three-person household consisting of yourself, your spouse, and your daughter.

Although your NYSOH account reflects that your enrollment in your 2016 qualified health plan terminated on November 30, 2016, there is no disenrollment notice in your NYSOH account which confirms this. You testified that you did not receive a disenrollment notice from your plan, indicating your plan had ended as of November 30, 2016, and that you are being billed for your December 2016 premium.

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility as of December 1, 2016 based on a household of three, residing in [REDACTED] with a household income of \$51,000.00, and seeking enrollment in an individual plan.

As your daughter being removed from your account would make you ineligible for an individual and one dependent family qualified health plan, this would result in a loss of minimum essential coverage.

Therefore, you are eligible for a special enrollment period as of December 1, 2016. Your case is further RETURNED to NYSOH to assist you in enrolling in a plan as of December 1, 2016.

## **Decision**

The October 17, 2016 eligibility determination notice is RESCINDED.

The October 17, 2016 enrollment confirmation notice is RESCINDED.

You are granted a special enrollment period, effective December 1, 2016.

Your case is RETURNED to NYSOH to reinstate your APTC of up to \$452.00 per month for November 2016, to redetermine your eligibility as of December 1, 2016 based on a household of three, residing in [REDACTED], and seeking enrollment in an individual plan with a household income of \$51,000.00, and assisting you to enroll in a plan as of December 1, 2016.

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

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

You are eligible for APTC of up to \$452.00 per month for November 2016.

Your case is being sent back to redetermine your eligibility for December 2016, as your daughter was no longer on your account at that time.

You will be permitted to select a plan for enrollment as of December 1, 2016, if you so choose.

## **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
- By fax: 1-855-900-5557

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## **Summary**

The October 17, 2016 eligibility determination notice is RESCINDED.

The October 17, 2016 enrollment confirmation notice is RESCINDED.

You are granted a special enrollment period, effective December 1, 2016.

Your case is RETURNED to NYSOH to reinstate your APTC of up to \$452.00 per month for November 2016, to redetermine your eligibility as of December 1, 2016 based on a household of three with a household income of \$51,000.00, residing in [REDACTED], and seeking enrollment in an individual plan, and assisting you to enroll in a plan as of December 1, 2016.

You are eligible for APTC of up to \$452.00 per month for November 2016.

Your case is being sent back to redetermine your eligibility for December 2016, as your daughter was no longer on your account at that time.

You will be permitted to select a plan for enrollment as of December 1, 2016, if you so choose.

## **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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