



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

## Notice of Decision

Decision Date: May 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014930

[REDACTED]

Dear [REDACTED],

On May 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 19, 2016 eligibility determination notice and the December 15, 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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## Decision

Decision Date: May 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014930

[REDACTED]

## 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, your spouse and your child's eligibility for advance payments of the premium tax credit ended effective November 1, 2016?

Did NYSOH properly determine that you and your spouse's eligibility for advance payments of the premium tax credit was effective January 1, 2017?

## Procedural History

On April 20, 2016, NYSOH issued a notice of eligibility determination stating that you, your spouse, and your child were conditionally eligible to receive up to \$707.00 per month in advance payments of the premium tax credit (APTC), effective June 1, 2016. The notice further directed you to provide documentation confirming your household's income before July 18, 2016.

Also on April 20, 2016, NYSOH issued a notice confirming the enrollment of you, your spouse, and your child in qualified health plan (QHP) with a collective APTC of up to \$707.00 per month, effective June 1, 2016.

On September 19, 2016, NYSOH issued an eligibility determination notice stating that you, your spouse, and your child were newly eligible to purchase a qualified health plan at full cost. The notice stated that your family was not eligible to receive APTC or cost-sharing reductions because NYSOH did not receive the

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income documentation needed to verify the income listed in your application. This eligibility was effective November 1, 2016.

On September 19, 2016, NYSOH issued an enrollment confirmation notice stating that you, your spouse, and your child were enrolled in a QHP with \$0.00 of APTC applied to your premium.

On December 14, 2016, you updated your application for financial assistance, and removed your child from your NYSOH account at that time.

On December 15, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were conditionally eligible to receive up to \$507.00 in APTC, effective January 1, 2017.

On January 18, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC for the months of October, November and December 2016.

On March 17, 2017, NYSOH received (1) a letter issued by [REDACTED], dated March 1, 2017, confirming that your spouse's monthly income, and (2) a 2016 Schedule K-1 (Form 1041) issued to your spouse reflecting her portfolio and nonbusiness income of \$50,298.00.

On May 2, 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, and your account indicates, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you received the eligibility determination notices requesting that you provide income documentation to confirm your family's eligibility.
- 3) You testified that while you contacted NYSOH to update the information in your NYSOH account, you did not know that you needed to submit documentation of your income until the cost of the premiums for you, your spouse, and your child had drastically increased.

- 4) Your NYSOH account indicates that on September 18, 2016 your application was run and you, your spouse, and your child were found no longer eligible for APTC as of November 1, 2016.
- 5) Your account reflects that you had not submitted income documents until you provided documentation in connection with your spouse's trust account on March 17, 2017.
- 6) You updated the income information in your NYSOH account on December 15, 2016. You also removed your child from your account at that time. As a result, you and your spouse were found eligible for an APTC of up to \$507.00 per month, effective January 1, 2017.
- 7) You testified that you are seeking reinstatement of your APTC as of October 1, 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)).

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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 first issue under review is whether NYSOH properly determined that you, your spouse, and your child's eligibility for APTC ended effective November 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 issued on April 20, 2016, you were advised that your family's eligibility for APTC was only conditional, and that you needed to confirm your household's income before July 18, 2016.

You testified that you received the eligibility determination notices requesting that you provide income documentation to confirm your family's eligibility. However, you testified that while you contacted NYSOH to update the information in your NYSOH account, you did not know that you needed to submit documentation of your income until the cost of the premiums for you, your spouse, and your child had drastically increased.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation. Any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Accordingly, your eligibility for APTC should have ended as of October 1, 2016, the month following the September 19, 2016 eligibility redetermination.

Therefore, the September 19, 2016 eligibility determination notice is MODIFIED to state that you, your spouse, and your child were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

The second issue is whether NYSOH properly determined that you and your spouse's eligibility for APTC was effective January 1, 2017.

On December 14, 2016, you updated the income information in your NYSOH account. On December 15, 2016, a notice of eligibility redetermination was issued stating that you and your spouse were eligible to receive up to \$507.00 in APTC, effective January 1, 2017.

As stated above, any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Since you updated your application on December 15, 2016, any changes in APTC should have been made effective as of January 1, 2017.

Therefore, NYSOH's December 15, 2016 eligibility determination is correct and is AFFIRMED.

## **Decision**

The September 19, 2016 notice of eligibility determination is MODIFIED to state that you, your spouse, and your child were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

The December 15, 2016 notice of eligibility determination is AFFIRMED.

**Effective Date of this Decision:** May 9, 2017

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

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).

NYSOH properly found you, your spouse, and your child not eligible to receive APTC effective October 1, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that you and your spouse's redetermination for APTC was effective January 1, 2017.

## **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 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).



## **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 19, 2016 notice of eligibility determination is MODIFIED to state that you, your spouse, and your child were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application, effective October 1, 2016.

The December 15, 2016 notice of eligibility determination is AFFIRMED.

NYSOH properly found you, your spouse, and your child not eligible to receive APTC effective October 1, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that you and your spouse's redetermination for APTC was effective January 1, 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&etumi 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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