



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

## Notice of Decision

Decision Date: August 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017282

[REDACTED]

Dear [REDACTED],

On June 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 10, 2017 eligibility determination notice and April 11, 2017 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: August 17, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017282

[REDACTED]

## Issues

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your eligibility for advance payments of the premium tax credit ended effective April 1, 2017?

## Procedural History

On December 16, 2016, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive an advance premium tax credit (APTC) of up to \$256.00 per month, if you selected a silver-level plan, conditionally eligible to receive cost-sharing reductions (CSR), effective January 1, 2017. The notice further directed you to provide documentation confirming your income before February 16, 2017. The notice erroneously states that "you will find a list of acceptable documents at the end of this notice," since no such list was included.

On December 18, 2016, NYSOH issued a notice confirming your enrollment in platinum-level qualified health plan (QHP), effective January 1, 2017, at a monthly premium of \$621.12, after applying the \$256.00 APTC.

On February 1, 2017, NYSOH received an unsigned and undated 1<sup>st</sup> page of your tax return for 2015, reflecting an adjusted gross income of \$29,535.00.

On February 14, 2017, NYSOH issued a notice stating that the income documentation you provided was not sufficient to confirm the information contained in your application. The notice requested that you provide additional

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income documentation by March 3, 2017 so that your eligibility for financial assistance could be confirmed. The notice erroneously stated that “you will find a list of acceptable documents at the end of this notice”; no such list was included.

On March 9, 2017, NYSOH redetermined your eligibility for financial assistance.

On March 10, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost. The notice stated that you were not eligible to receive APTC or CSR because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective April 1, 2017. The notice further stated that any APTC with your current plan will no longer be available after March 31, 2017.

Also on March 10, 2017, NYSOH issued an enrollment notice stating that you remained enrolled in your platinum-level QHP, effective April 1, 2017, at a monthly premium of \$897.12.

On March 24, 2017, NYSOH received a signed and dated 1<sup>st</sup> page of your 2015 tax return.

Also on March 24, 2017 you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC as of March 31, 2017.

On March 30, 2017, NYSOH received a facsimile from you containing a duplicate copy of the signed and dated 1<sup>st</sup> page of your 2015 tax return, as well as signed and dated IRS e-file Signature Authorization (Form 8879) submitted for 2015 tax return.

On March 30, 2017, NYSOH received an updated application for financial assistance in purchase health insurance.

On March 31, 2017, NYSOH issued a notice of eligibility determination stating that you eligible to receive an APTC of up to \$256.00 per month, if you selected a silver-level plan, eligible for CSR, effective May 1, 2017.

Also on March 31, 2017, NYSOH issued an enrollment notice confirming your enrollment in the platinum-level QHP at monthly premium of \$641.12, after giving effect to the \$256.00 APTC. The notice stated that your APTC would be applied to your monthly premium starting on April 1, 2017.

On April 10, 2017, NYSOH redetermined your eligibility for financial assistance.

On April 11, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a QHP at full cost, effective May 1, 2017.

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Also on April 11, 2017, NYSOH issued an enrollment notice confirming your enrollment in the platinum-level QHP, with a monthly premium of \$897.12.

On April 17, 2017, NYSOH received an updated application for financial assistance in purchase health insurance.

On April 18, 2017, NYSOH issued a notice of eligibility determination stating that you eligible to receive an APTC of up to \$256.00 per month, if you selected a silver-level plan, eligible for CSR, effective June 1, 2017.

Also on April 18, 2017, NYSOH issued an enrollment notice confirming your enrollment in the platinum-level QHP at monthly premium of \$897.12, and none the APTC had been applied.

On June 29, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed the 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 elected to receive your notices from NYSOH by regular mail.
- 2) You testified that you received the December 16, 2016 eligibility determination notice stating that your eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) On February 1, 2017, you provided to NYSOH an unsigned and undated 1<sup>st</sup> page of your tax return for 2015, reflecting an adjusted gross income of \$29,535.00.
- 4) On February 14, 2017, NYSOH issued a NYSOH issued a notice stating that the income documentation you provided was not sufficient to confirm the information contained in your application. The notice requested that you provide additional income documentation by March 3, 2017 so that your eligibility for financial assistance could be confirmed. The notice erroneously stated that "you will find a list of acceptable documents at the end of this notice." Again, no such list was included. You testified that you did not received this notice by regular mail, but only located the notice in your NYSOH account after the March 3, 2017 deadline had passed.

- 5) On March 24, 2017, you provided to NYSOH received a signed and dated 1<sup>st</sup> page of your 2015 tax return.
- 6) Your NYSOH account indicates that on March 9, 2017 your application was run and you were found no longer eligible for APTC as of April 1, 2017.
- 7) You testified that you are seeking reinstatement of your APTC as of April 1, 2017; specifically, for the months of April and May of 2017, though you believe that there may have been an application of APTC during the month of May 2017, which caused your premium for June 2017 to become higher than you anticipated.

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 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 April 1, 2017.

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 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 December 16, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income by February 16, 2017.

You testified that while you received the December 16, 2016 notice from NYSOH telling you that you needed to provide income documentation to confirm your eligibility, you were unclear on what documentation you needed to provide since the notice in question did not contain the list of accepted income documentation to confirm your eligibility. You credibly testified that when you contacted NYSOH, you were instructed to provide a copy of your tax return 2015, but were not told that it needed to be signed and dated.

On February 1, 2017, you provided an unsigned and undated 1<sup>st</sup> page of your tax return for 2015, reflecting an adjusted gross income of \$29,535.00. This document was rejected by NYSOH as valid proof of your income because it was not signed and dated.

On February 14, 2017, NYSOH issued you an additional notice requesting income documents, but again the notice did not contain the list of accepted income documentation to confirm your eligibility. The deadline to provide these documents was extended to March 3, 2017.

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You ultimately provided the accepted documentation on March 24, 2017, but by that time your APTC of \$256.00 per month had been terminated as of April 1, 2017, and was not reinstated until June 2017.

It is concluded that NYSOH failed to give you the proper notice insofar as you were not provided with the list of income documents to provide to confirm your eligibility for APTC. Had you been given this information, you would have had time to produce the needed documentation to avoid any gap in your receipt of APTC.

Since you were not made aware of the necessary income documents to provide to resolve the inconsistency in your NYSOH account, the March 10, 2017 eligibility determination stating that you were no longer eligible for APTC because you failed to submit documentation is RESCINDED.

Since the April 11, 2017 eligibility determination notice is no longer supported by the record, it is also RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC as of April 1, 2017

You testified, and the record reflects, that while your APTC had been reinstated as of June 1, 2017, you believe that there may have been an application of APTC during the month of May 2017, which caused your premium for June 2017 to become higher than you anticipated. Therefore, your case is RETURNED to Plan Management to investigate both the premiums charged and the APTC credited to you during the 2017 plan year so that your overall billing amounts may be reconciled.

## **Decision**

The March 10, 2017 eligibility determination notice is RESCINDED.

The April 11, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC as of April 1, 2017

Your case is RETURNED to Plan Management to investigate both the premiums charged and the APTC credited to you during the 2017 plan year so that your overall billing amounts may be reconciled.

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



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

NYSOH erred in terminating your APTC effective April 1, 2017, without the proper notice.

Your case is being sent back to NYSOH to reinstate your APTC as of April 1, 2017.

Your case is being sent back to Plan Management to investigate both the premiums charged and the APTC credited to you during the 2017 plan year so that your overall billing amounts may be reconciled.

## **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

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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 March 10, 2017 eligibility determination notice is RESCINDED.

The April 11, 2017 eligibility determination notice is RESCINDED.

NYSOH erred in terminating your APTC effective April 1, 2017, without the proper notice.

Your case is being sent back to NYSOH to reinstate your APTC as of April 1, 2017.

Your case is being sent back to Plan Management to investigate both the premiums charged and the APTC credited to you during the 2017 plan year so that your overall billing amounts may be reconciled.

### **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。我们可以为您免费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)**

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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।

### **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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