



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

## Notice of Decision

Decision Date: September 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017453

[REDACTED]

Dear [REDACTED],

On August 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 18, 2017 and March 30, 2017 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.

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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017453



## 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 your eligibility for advance payments of the premium tax credit (APTC) ended effective May 1, 2017?

Did NYSOH properly determine that your eligibility for APTC was effective May 1, 2017?

## Procedural History

On December 12, 2016, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible to receive up to \$307.00 in advance payments of the premium tax credit (APTC) and conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan (QHP), effective January 1, 2017. The notice further directed you to provide documentation confirming your income before March 11, 2017.

Also on December 12, 2016, NYSOH issued a notice confirming your enrollment in a QHP with APTC and cost-sharing reductions, effective January 1, 2017.

No documentation was received by March 11, 2017.

On March 17, 2017, NYSOH redetermined your eligibility.

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On March 18, 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 cost-sharing reductions because NYSOH did not receive the income documentation needed to verify the income listed in your application. This eligibility was effective May 1, 2017.

On March 23, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a QHP with \$0.00 of APTC applied to your premium.

On March 29, 2017, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$303.00 in APTC and eligible to receive cost-sharing reductions, effective May 1, 2017.

Also on March 29, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your APTC, effective May 1, 2017.

On March 30, 2017, NYSOH issued a notice of eligibility determination, based on the March 29, 2017 application, stating that you were eligible to receive up to \$303.00 in APTC and eligible to receive cost-sharing reductions, effective May 1, 2017.

NYSOH records reflect that you were granted Aid to Continue during the pendency of the appeal.

On April 1, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a QHP with \$303.00 of APTC applied to your premium, effective January 1, 2017.

On August 9, 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 NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did receive an electronic alert notifying you of a notice in your NYSOH account stating that your eligibility was only conditional and that you needed to provide documentation of your income by March 11, 2017.

- 3) You testified that it was an oversight on your part that you did not provide the income documentation to NYSOH by March 11, 2017.
- 4) Your NYSOH account indicates that on March 17, 2017 your application was run and you were found no longer eligible for APTC as of May 1, 2017.
- 5) You updated the income information in your NYSOH account on March 29, 2017.
- 6) NYSOH records reflect that you were determined eligible for APTC effective May 1, 2017.
- 7) You testified and NYSOH records reflect that you are receiving Aid to Continue during the pendency of this appeal.
- 8) You testified that you are appealing the determination stating that you were eligible for a full cost QHP effective May 1, 2017.

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 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 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

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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 *decreases* in eligibility to receive APTC effective as of the first day of the month following the date of the notice if the change occurs on or before the 15<sup>th</sup> of the month; otherwise, the change becomes effective the first day of the second following month (45 CFR § 155.310(f), 45 CFR § 155.330(e), 45 CFR § (f)(1)(i) and (f)(3)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual when 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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your eligibility for advance payments of the premium tax credit (APTC) ended effective May 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her 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 12, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before March 11, 2017.

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The record reflects that NYSOH did not receive the requested income documentation before the deadline.

You testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did receive the electronic alert regarding the eligibility determination notice, which directed you that your eligibility was only conditional and that you needed to submit documentation to confirm your income. You testified that it was an oversight on your part that you did not provide the income documentation to NYSOH by March 11, 2017.

Therefore, it is concluded that NYSOH did give you the proper notice that you needed to submit documentation of your income to confirm your eligibility for APTC.

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 decreases in APTC are to be made effective the first of the second month following the eligibility redetermination notice, if the change occurs after the 15th of the month.

Accordingly, your eligibility for APTC should have ended as of May 1, 2017, the first of the second month following the March 18, 2017 eligibility redetermination.

Therefore, the March 18, 2017 eligibility determination notice is AFFIRMED.

The second issue is whether NYSOH properly determined that your eligibility for advance premium tax credits was effective May 1, 2017.

On March 29, 2017, you updated the income information in your NYSOH account. On March 30, 2017, a notice of eligibility redetermination was issued stating that you were eligible to receive up to \$303.00 in APTC and eligible to receive cost-sharing reductions, effective May 1, 2017.

As stated above, any increases in APTC are to be made effective the first day of the month immediately following the eligibility redetermination notice.

Since you updated your application on March 29, 2017, any changes in APTC should have been made effective as of April 1, 2017.

Therefore, NYSOH's March 30, 2017 eligibility determination is MODIFIED to state that you were eligible to receive APTC effective April 1, 2017.

You testified that your appeal was regarding your loss of APTC for the month of May 2017. After the filing of your appeal, NYSOH determined that you were

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eligible for APTC during the month of May 2017. Therefore, you had no gap in coverage regarding your APTC.

## **Decision**

The March 18, 2017 eligibility determination notice is **AFFIRMED**.

The March 30, 2017 eligibility determination is **MODIFIED** to state that you were eligible to receive APTC effective April 1, 2017.

Your case is **RETURNED** to NYSOH to implement the above changes to your APTC.

**Effective Date of this Decision:** September 19, 2017

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

Your case is **RETURNED** to NYSOH to implement the above changes to your APTC and to advise you accordingly; there should be no gap in your receipt of APTC

## **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

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- 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 March 18, 2017 eligibility determination notice is **AFFIRMED**.

The March 30, 2017 eligibility determination is **MODIFIED** to state that you were eligible to receive APTC effective April 1, 2017.

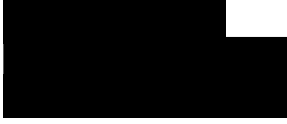
Your case is **RETURNED** to NYSOH to implement the above changes to your APTC and to advise you accordingly; there should be no gap in your receipt of APTC

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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**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 مجانًا.

### 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 bɛtumi ama wo obi a okyerɛ 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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