



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

### Notice of Decision

Decision Date: August 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017642

[REDACTED]

Dear [REDACTED],

On July 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 21, 2017 and April 4, 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 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.

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: August 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017642

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

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

Did NY State of Health properly determine that application of your advance payments of the premium tax credit was effective no earlier than May 1, 2017?

## Procedural History

On November 30, 2016, NY State of Health (NYSOH) issued an eligibility determination notice, based on your November 29, 2016 application, stating in part that for a limited time you were eligible to receive up to \$179.00 in advance payments of the premium tax credit (APTC), effective January 1, 2017. The notice instructed you to provide documentation confirming your income before February 27, 2017, to confirm your eligibility.

Also on November 30, 2016, NYSOH issued a plan enrollment notice confirming in part your selection of a gold-level qualified health plan (QHP) with a monthly premium of \$520.85, after your monthly APTC of \$179.00 was applied as of January 1, 2017.

On February 7, 2017 and February 8, 2017, you submitted three bank transfer statements (see Documents [REDACTED] [REDACTED] and

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[REDACTED]). These documents were invalidated by NYSOH on February 17, 2017.

On February 18, 2017, NYSOH issued a notice stating that the documents you provided were insufficient to confirm the information in your application. The notice directed you to provide additional documentation confirming your income before March 14, 2017.

On March 21, 2017, NYSOH issued an eligibility determination notice stating that, effective May 1, 2017, you were newly eligible to purchase a QHP at full cost. The notice stated that you were not eligible to receive APTC because NYSOH did not receive the income documentation needed to verify the income listed in your application by the deadline.

Also on March 21, 2017, NYSOH issued a plan enrollment notice confirming in part your enrollment in a gold-level QHP at the increased (full cost) monthly premium amount of \$699.85, effective May 1, 2017.

On April 3, 2017, NYSOH prepared a preliminary eligibility determination notice, based on that day's updated application, finding you eligible to receive up to \$166.00 in APTC, effective May 1, 2017.

Also on April 3, 2017, you spoke to NYSOH's Account Review Unit and appealed that preliminary determination insofar as your APTC was terminated for the period of January 1, 2017 through March 31, 2017.

On April 4, 2017, NYSOH issued an eligibility determination notice, based on your April 3, 2017 updated application, stating in part that you were eligible to receive up to \$166.00 in APTC, effective May 1, 2017.

Also on April 4, 2017, NYSOH issued a plan enrollment notice confirming in part your selection of a gold-level QHP with a monthly premium of \$533.85 after your monthly APTC of \$166.00 was applied as of May 1, 2017.

On July 17, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open to August 2, 2017 to allow you time to submit supporting documents, including billing statements from your health plan and proof of premium payments.

On August 2, 2017, NYSOH Appeals Unit received copies of your proof of premium payments from December 2016 through May 2017. These documents were made part of the record as "Appellant's Exhibit A." No further documentation was received and the record was closed that day.

## Findings of Fact

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

- 1) On November 30, 2016, you were found conditionally eligible for APTC effective January 1, 2017.
- 2) On February 7, 2017 and February 8, 2017, you submitted three bank transfer statements; which were subsequently invalidated as insufficient by NYSOH on February 17, 2017 (see Documents [REDACTED], [REDACTED] and [REDACTED]).
- 3) You were notified that the documents you provided were insufficient to confirm your eligibility and, by the February 17, 2017 notice, were directed to provide additional income documentation confirming your income before March 14, 2017.
- 4) According to your NYSOH account and your testimony, you provided no further proof of income.
- 5) Your NYSOH account indicates that, on March 20, 2017, your application was systematically run and you were found no longer eligible for APTC as of May 1, 2017.
- 6) You testified that, when you updated your account in April 2017, you were accepted immediately utilizing the same income documents that you had submitted on February 7, 2017. You further testified that, since you were found eligible for APTC without further proof of income documentation, you should not have lost your APTC.
- 7) You testified that APTC was not applied to your account months of January 1, 2017 through March 31, 2017 and your health plan is seeking full premium payments for that period to continue your health coverage.
- 8) On August 2, 2017, NYSOH Appeals Unit received copies of your proof of premium payments from December 2016 through May 2017. These documents show that you made payments in the amount of \$422.76 in December 2016, \$520.85 in January 2017 and in February 2017, \$943.61 in March 2017, \$699.85 in April 2017, and \$533.85 in May 2017 (see Appellant's Exhibit A, pp. 2-4).
- 9) Your NYSOH account indicates that, on April 3, 2017, you renewed your application for financial assistance, and you were found eligible for APTC, without condition, as of 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 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)).

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)).

### Timely Notice of Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

### Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

### End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the 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).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your eligibility for 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 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 November 30, 2016, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before February 27, 2017.

You testified that you received the notice requesting that proof of income be submitted. In fact, you submitted proof of income prior to the February 27, 2017 due date. Therefore, it is concluded that NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account.

However, on February 17, 2017, NYSOH invalidated your submitted proof of income as insufficient and issued a notice directing you to provide additional income documentation confirming your income before March 14, 2017. No additional proof of income documentation was received before March 14, 2017.

As such, on March 20, 2017, NYSOH redetermined your eligibility based on the information available from federal and state data sources and, on March 21, 2017, issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost, effective May 1, 2017

You testified that when you updated your account in April 2017, you were accepted immediately utilizing the same income documents that you had submitted on February 7, 2017. Therefore, you believe should not have lost your APTC.

However, the documentation you submitted on February 7, 2017 was a statement of bank transfer deposits. Upon review, these documents are not sufficient to ascertain what your income was for the prior three months, or whether these documents are reflective of income at all. These documents are merely a statement of transfer of funds from one account to another.

Moreover, the credible evidence of record does not show that the proof of income submitted on February 7, 2017, was ever validated by NYSOH. Rather, it is conceivable that the basis of your eligibility determination is the result of NYSOH's federal and state data sources matching your attested to income at the time of your April 3, 2017 application.

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Any changes in APTC are to be made effective the first day of the month following the eligibility determination notice. Accordingly, your eligibility for APTC should have ended as of April 1, 2017, the month following the issuance of the March 21, 2017 eligibility determination notice.

Therefore, the March 21, 2017 eligibility determination notice is MODIFIED to state that you were not eligible to receive APTC as of April 1, 2017, because NYSOH did not receive sufficient income documentation needed to verify the income listed in your application.

The second issue under review is whether NYSOH properly determine that application of your APTC was effective no earlier than May 1, 2017.

The record shows that, on April 3, 2017, you updated the information in your NYSOH account. On April 4, 2017 NYSOH issued eligibility determination and plan enrollment notices stating in part that you were eligible to receive up to \$166.00 in APTC, effective May 1, 2017.

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

Since you updated your application on April 3, 2017, any changes in APTC should have been made effective as of May 1, 2017.

Therefore, NYSOH's April 4, 2017 eligibility determination and plan enrollment notices were correct and are AFFIRMED.

During the hearing, you testified that your APTC was retroactively terminated back to January 1, 2017 and that your QHP directed you to pay the full premium for coverage dating back to January 1, 2017. You testified that, to avoid a backdated loss of coverage for non-payment of premium, you were informed that you must pay the retroactive premiums. You submitted proof that you made the additional premium payments so your coverage could continue.

Any changes in APTC are to be made effective the date following the eligibility determination notice. Accordingly, your APTC should have only been affected as of April 1, 2017, the month following the March 21, 2017 eligibility redetermination. NYSOH Appeals Unit does not have authority to hear issues involving QHP billing and payments. Therefore, your case is RETURNED to Plan Management to investigate whether your plan has correctly billed you for months when you should have been receiving APTC.

Lastly, at the end of a tax year, a person who elects to take the 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, which may also result in a tax credit or

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reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. The amount of APTC to which you were entitled can be reconciled at the time you file your 2017 federal tax return.

## **Decision**

The March 21, 2017 eligibility determination notice is MODIFIED to state that, effective April 1, 2017, you were not eligible to receive APTC because NYSOH did not receive sufficient income documentation needed to verify the income listed in your application.

The April 4, 2017 eligibility determination and plan enrollment notices are AFFIRMED.

Your case is RETURNED to Plan Management to investigate whether your plan has correctly billed you for months when you should have been receiving APTC.

**Effective Date of this Decision:** August 22, 2017

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

You were not eligible to receive APTC effective April 1, 2017 because you did not provide documentation of your household's income to NYSOH in a timely manner.

NYSOH properly found that your renewed eligibility for APTC was effective May 1, 2017.

Your case is being sent back so that Plan Management can investigate your claim that your QHP retroactively terminated your 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

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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**

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The March 21, 2017 eligibility determination notice is MODIFIED to state that, effective April 1, 2017, you were not eligible to receive APTC because NYSOH did not receive sufficient income documentation needed to verify the income listed in your application.

The April 4, 2017 eligibility determination and plan enrollment notices are AFFIRMED.

Your case is RETURNED to Plan Management to investigate whether your plan has correctly billed you for months when you should have been receiving APTC.

You were not eligible to receive APTC effective April 1, 2017 because you did not provide documentation of your household's income to NYSOH in a timely manner.

NYSOH properly found that your renewed eligibility for APTC was effective May 1, 2017.

Your case is being sent back so that Plan Management can investigate your claim that your QHP retroactively terminated your APTC.

## **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 مجانًا.

### বাংলা (Bengali)

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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.

### **שׂוֹדֵשׂ (Yiddish)**

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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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