



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

## Notice of Decision

Decision Date: August 18, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018838

[REDACTED]

Dear [REDACTED],

On August 15, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's March 10, 2017 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).

This page intentionally left blank.



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

## Decision

Decision Date: August 18, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018838

[REDACTED]

## 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 no longer eligible to receive advance payments of the premium tax credit, effective April 1, 2017?

## Procedural History

On December 10, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible to receive advance payments of the premium tax credit (APTC) of up to \$210.00 per month and cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2016.

Also on December 10, 2015, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in your qualified health plan as of January 1, 2016 and that your APTC would be applied to your monthly premium, effective January 1, 2016.

On October 17, 2016, NYSOH issued a renewal notice stating that you were eligible for APTC of up to \$235.30 per month, effective January 1, 2017.

On October 26, 2016, you updated your application for financial assistance with health insurance.

On October 27, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for APTC of up to \$222.00 per month and cost-sharing

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).

reductions if you enrolled in a silver level qualified health plan, effective December 1, 2016.

On November 7, 2016, the October 27, 2016 notice was returned to NYSOH as undeliverable for insufficient address.

On November 16, 2016, NYSOH issued a renewal notice stating that you were eligible for APTC of up to \$311.28 per month and cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2017.

On November 30, 2016, the November 16, 2016 notice was returned to NYSOH as undeliverable for insufficient address.

On November 19, 2016, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in a qualified health plan as of January 1, 2017 and that your APTC would be applied to your monthly premium, effective January 1, 2017. This was returned to NYSOH on November 28, 2016 for an insufficient address.

On March 9, 2017, NYSOH redetermined your eligibility.

On March 10, 2017, NYSOH issued a notice of eligibility determination stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective April 1, 2017.

On March 23, 2017, the March 10, 2017 notice was returned to NYSOH as undeliverable for insufficient address.

On April 3, 2017, you updated your application for financial assistance.

On April 4, 2017, NYSOH issued a notice of eligibility determination, based on the April 3, 2017 application, stating that you were eligible for APTC of up to \$313.00 per month and cost-sharing reductions if you selected a silver level qualified health plan for enrollment, effective May 1, 2017.

Also on April 4, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in your qualified health plan as of January 1, 2017 and that your APTC would be applied to your monthly premium, effective May 1, 2017.

On May 10, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it ended your APTC for the month of April 2017.

On August 15, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, Russian Interpreter [REDACTED]

interpreted. 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 your mailing address is “[REDACTED], [REDACTED]”. You testified that this has been your address since 2001.
- 2) Your NYSOH account indicates that on October 26, 2016 your application was updated by a certified application counselor. The address listed in that application is “[REDACTED]”.
- 3) Your NYSOH account reflects that on October 27, 2016, your address was updated by the system to be [REDACTED].
- 4) All the notices that were returned as undeliverable were sent to “[REDACTED]”.
- 5) You testified that you never reported to NYSOH that “[REDACTED]” was your address.
- 6) You testified that you learned that you had lost your tax credit for the month of April 2017 when you received your April 2017 premium bill from your qualified health plan.
- 7) You testified that after receiving this bill, you contacted NYSOH and your tax credit was ultimately restored as of May 1, 2017.
- 8) You testified that you are a naturalized citizen, you have been in the United States since 1992 and you became a citizen in 1997.
- 9) You testified that you were not incarcerated in 2016 or 2017.
- 10) You testified that you did not live outside of NY State in 2016 or 2017.
- 11) You testified that you never received any notice from NYSOH asking you to confirm your address or provide proof of your NY State residency.
- 12) You testified that you are seeking reinstatement of your APTC for the month of April 2017.

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

## **Applicable Law and Regulations**

### State Residency Requirement

Generally, an applicant is eligible for enrollment in a qualified health plan (QHP) through NYSOH if he: (1) is a citizen or national of the United States; (2) is not incarcerated; and (3) is a resident of the state (45 CFR § 155.305(a)(1)-(3)).

NYSOH must verify an applicant's attestation that the applicant is a resident of the state by either relying on available electronic data sources, or accepting the applicant's attestation when electronic data sources are unavailable (45 CFR § 155.315(d)). However, if an applicant's attestation is not reasonably compatible with information from approved data sources or other information provided by the applicant, NYSOH must notify the applicant of the inconsistency and provide the applicant with a period of 90 days to present documentation to resolve the inconsistency (45 CFR § 155.315(d)(4); 45 CFR § 155.315(f)(2)(i)-(ii)).

If the Exchange remains unable to verify the attestation after the 90-day period ends, then it must determine the applicant's eligibility based on the information available in the data sources (45 CFR § 155.315(f)(5)(i)).

### APTC Eligibility

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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were no longer eligible to receive APTC, effective April 1, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage and receive APTC through NYSOH, and must confirm, among other things, that their residency status is satisfactory.

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).

You were enrolled in a qualified health plan with APTC and cost-sharing reductions, effective January 1, 2017. However, the October 27, 2016 eligibility determination notice, November 16, 2016 renewal notice, November 19, 2016 enrollment notice, and March 10, 2017 eligibility determination notice were returned to NYSOH as insufficiently addressed or undeliverable.

As a result, NYSOH redetermined your eligibility and issued a notice of eligibility determination stating that you were newly eligible to enroll in a qualified health plan at full cost, effective April 1, 2017.

If NYSOH cannot verify an individual's residency, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record reflects that NYSOH never advised you that you needed to confirm your NY State residence.

Furthermore, you testified that your address has been "[REDACTED]" since 2001. There is no indication in the record that you or anyone on your behalf ever advised NYSOH that your address was "[REDACTED]" .

As NYSOH failed to provide you with notice that there was an inconsistency in your account with regard to your residency, and the record reflects that you have continuously retained NY State residency during the time period in question, your APTC was improperly discontinued as of April 1, 2017.

Therefore, the March 10, 2017 eligibility determination stating that you were eligible to purchase a qualified health plan at full cost effective April 1, 2017 is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC for the month of April 2017.

## **Decision**

The March 10, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC, effective April 1, 2017.

**Effective Date of this Decision:** August 18, 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 erred in removing your APTC for the month of April 2017 without proper notice.

Your case is being sent back to NYSOH to reinstate your APTC for the month of April 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 Have Questions about this Decision (Customer Service Resources):**

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).



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.

Your case is RETURNED to NYSOH to reinstate your APTC effective April 1, 2017.

NYSOH erred in removing your APTC for the month of April 2017 without proper notice.

## **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।

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).

## **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.

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).