



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

## Notice of Decision

Decision Date: October 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019172

[REDACTED]

Dear [REDACTED],

On August 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 16, 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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STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: October 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019172

[REDACTED]

## Issue

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

Did NY State of Health properly determine that you and your spouse's eligibility for advance payments of the premium tax credit ended effective June 1, 2017?

## Procedural History

On March 27, 2017, NYSOH received an updated application for health insurance.

On March 28, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to receive an advance premium tax credit (APTC) of up to \$594.00 per month and, if you selected a silver-level plan for enrollment, eligible for cost-sharing reductions (CSR), in each case for a limited time, effective May 1, 2017. You were requested to provide income documentation for you and your spouse by June 19, 2017 to confirm your eligibility.

On April 14, 2017 and April 15, 2017, NYSOH received (1) multiple account summary pages reflecting purchases and credits under several of your [REDACTED] credit accounts and banking accounts, (2) a spreadsheet of business deductions you expected to take between January 1, 2017 and April 7, 2017, and projected deductions you anticipated you would be taking between April 7, 2017 and December 31, 2017, (3) five earnings statements issued to you by your former employer, [REDACTED], between January 20, 2017 and

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March 31, 2017, (4) various receipts for costs you presumably incurred in connection with your business, (5) a copy of the commercial lease you entered into with [REDACTED], dated April 28, 2016, (6) an earnings statement issued to your spouse by his employer, [REDACTED] on March 28, 2017.

On April 19, 2017, NYSOH issued a notice stating that the documentation you provided did not confirm the information contained in your application. The notice requested that you provide additional income information by June 19, 2017 to confirm your household's eligibility.

On May 12, 2017, NYSOH received (1) four earnings statements issued to you by [REDACTED] between May 31, 2017 and May 12, 2017, and (2) four earnings statements issued to your spouse by [REDACTED] between April 11, 2017 and May 9, 2017.

On May 13, 2017, NYSOH issued an enrollment notice confirm the enrollment of you and your spouse in a silver-level qualified health plan (QHP) as of May 12, 2017. The notice stated that your coverage would begin effective June 1, 2017, with a monthly premium of \$350.96, after applying the \$594.00 APTC.

On May 15, 2017, NYSOH redetermined you and your spouse's eligibility for health insurance.

On May 16, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were each newly eligible to purchase a QHP at full cost, effective June 1, 2017. The notice also stated that your household's APTC would no longer be available after May 31, 2017.

Also on May 16, 2017, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in the silver-level QHP as of May 15, 2017. The notice stated that your new monthly premium would be \$944.96, effective June 1, 2017.

On May 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your household's APTC as of June 1, 2017.

On August 29, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) a letter of termination issued to you by [REDACTED], together with a copy of your final earnings statement, (2) letter from your spouse's employer confirming revised anticipated earnings for 2017 (accounting for his five week period of being out of work during 2017), and (3) spreadsheet confirming your business income and expenses during months of June, July and August 2017. The record was to be closed 15

days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On September 13, 2017, you provided to NYSOH Appeals Unit through your NYSOH account (1) a letter issued to you by [REDACTED], dated September 12, 2017, confirming the final date of your employment was August 8, 2017, (2) an unsigned letter issued by [REDACTED], dated September 12, 2017, confirming that his expected gross income during 2017 was \$42,300.00, (3) three balance sheets reflecting your business income and expenses during the months of May, June and July 2017.

On September 14, 2017, you provided to NYSOH Appeals Unit through your NYSOH account a signed letter issued by [REDACTED], dated September 13, 2017, confirming that his expected gross income during 2017 was \$42,300.00.

Accordingly, the record was closed on September 14, 2017.

## Findings of Fact

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

- 1) You testified that you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for you and your spouse.
- 3) The application that was submitted on March 27, 2017 listed annual household income of \$43,400.00, consisting of \$400.00 per week you anticipated earning from your employment with [REDACTED], and \$35,000.00 your spouse expects to receive from his employment with [REDACTED]. This total income figure also consisted of \$8,400.00 and \$4,000.00 in business expenses you and your spouse anticipated claiming as deductions, respectively, on your 2017 tax return. You testified that this amount was correct at the time you provided your revised application to NYSOH.
- 4) On April 14, 2017 and April 15, 2017, NYSOH received:
  - a. Multiple account summary pages reflecting purchases and credits under several of your [REDACTED] credit accounts;
  - b. a spreadsheet of business deductions you expected to take between January 1, 2017 and April 7, 2017, and projected

deductions you anticipated you would be taking between April 7, 2017 and December 31, 2017, on your 2017 tax return;

- c. five earnings statements issued to you by your former employer, [REDACTED], between January 20, 2017 and March 31, 2017;
- d. various receipts for costs you presumably incurred in connection with your business;
- e. a copy of the commercial lease you entered into with [REDACTED], dated April 28, 2016; and
- f. an earnings statement issued to your spouse by his employer, [REDACTED], Inc. on March 28, 2017.

However, these documents were reviewed by NYSOH on April 18, 2017, and found to be invalid for confirming your eligibility for APTC and CSR. You were requested to provide additional income documentation by June 19, 2017.

5) On May 12, 2017, you provided to NYSOH:

- a. four earnings statements issued to you by [REDACTED] between May 31, 2017 and May 12, 2017; and
- b. four earnings statements issued to your spouse by [REDACTED] between April 11, 2017 and May 9, 2017.

6) On May 15, 2017, NYSOH redetermined your eligibility based on the documents you provided to NYSOH on May 12, 2017. Your household's eligibility was redetermined based on a household income of \$65,437.50, consisting of \$31,037.50 you expected to earn from [REDACTED] and \$46,800.00 your spouse expected to receive from [REDACTED]. This total income figure also consisted of \$8,400.00 and \$4,000.00 in business expenses you and your spouse anticipated claiming as deductions, respectively, on your 2017 tax return

7) You testified at the hearing that you were no longer employed by [REDACTED] as of August 2017.

8) On September 13, 2017 and September 14, 2017, at the request of the Hearing Officer, you provided to NYSOH Appeal Unit:

- a. a letter issued to you by [REDACTED], dated September 12, 2017, confirming the final date of your employment was August 8, 2017;

- b. an unsigned letter issued by [REDACTED], dated September 12, 2017, confirming that his expected gross income during 2017 was \$42,300.00;
  - c. three balance sheets reflecting your business income and expenses during the months of May, June and July 2017.
- 9) You testified that you were seeking for you and your spouse to be found eligible to tax credits for the remainder of 2017, since QHP coverage at full cost was unaffordable to you, and you anticipated needing health coverage soon.

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 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

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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 you and your spouse's eligibility for APTC ended effective June 1, 2017.

You filed an application for health insurance on March 27, 2017 attesting to a household income of \$43,400.00, consisting of \$20,800.00 (\$400.00 x 52 weeks) you anticipated earning from your employment with [REDACTED], and (2) \$35,000.00 your spouse expects to receive from his employment with [REDACTED]. This total income figure also consisted of \$8,400.00 and \$4,000.00 in business expenses you and your spouse anticipated claiming as deductions, respectively, on your 2017 tax return. You testified that this figure was accurate.

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 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. Valid documentation for proof of wages and salary include paycheck stubs or a letter from an employer on company letterhead, signed and dated, which states gross earnings for the last four weeks.

In the eligibility determination issued on May 28, 2017, you were advised that your and your spouse's eligibility for APTC was only conditional, and that you needed to confirm your household's income by June 19, 2017.

Your NYSOH account indicates that you did submit income documentation to NYSOH on April 12, 2017 and April 15, 2017. NYSOH reviewed this documentation on April 18, 2017 and found that the earnings statements that you



provided were insufficient to confirm your eligibility. You were requested to provide additional income documentation by June 19, 2017.

The record reflects that on May 12, 2017, you provided to NYSOH four earnings statements issued to you by [REDACTED] between May 31, 2017 and May 12, 2017, and (2) four earnings statements issued to your spouse by [REDACTED] between April 11, 2017 and May 9, 2017.

On May 15, 2017, NYSOH redetermined your household's eligibility based on a household income of \$65,437.50, consisting of \$31,037.50 you expected to earn from [REDACTED] and \$46,800.00 your spouse expected to receive from [REDACTED]. This total income figure also consisted of \$8,400.00 and \$4,000.00 in business expenses you and your spouse anticipated claiming as deductions, respectively, on your 2017 tax return.

The record reflects that at the time you provided you and your spouse's earnings statements on May 12, 2017, you were still employed by [REDACTED].

Based on the income documents you provided, the record reflects that your anticipated earnings during 2017 at that point was \$31,037.50, based on an average of \$596.88 per week you received between April 14, 2017 and April 28, 2017 (\$2,387.50 in total income divided by 4 weeks), and your spouse's anticipated earnings was approximately \$46,800.00 (\$900.00 per week 52 weeks). After incorporating the total anticipated deductions during 2017 of \$12,400.00, we found your total household income as of May 15, 2017 to be \$65,437.50.

You are in a two-person household. You expect to file your 2017 income taxes as married filing jointly and will claim no dependents on that tax return.

APTC are available to a person who has a household income no less than effectively 200% and no greater than 400% of the FPL. On the date of the redetermination, the relevant FPL was \$16,020.00 for a two-person household.

An annual income of \$65,437.50 is 408.47% of the 2016 FPL for a two-person household. Since a household income of \$65,437.50 is 408.47% of the applicable FPL, NYSOH correctly found you and your spouse not eligible for APTC, effective June 1, 2017.

At the request of the Hearing Officer, on September 13, 2017 and September 14, 2017, you provided (1) a letter issued to you by [REDACTED], dated September 12, 2017, confirming the final date of your employment was August 8, 2017, (2) an signed letter issued by [REDACTED], dated September 12, 2017, confirming that his expected gross income during 2017 was \$42,300.00, (3) three balance sheets reflecting average monthly business net

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business income during the months of May, June and July 2017 was \$1,385.00. However, you did not provide the final earnings statement issued to you by [REDACTED], reflecting your total income through August 9, 2017.

Accordingly, we are unable to send your case back to NYSOH to redetermine your eligibility for financial assistance at this time

Since the May 16, 2017 eligibility determination notice properly stated that, based on the information you provided, you and your spouse were eligible for to purchase a QHP at full cost, effective June 1, 2017, it is correct and is AFFIRMED.

## **Decision**

The May 16, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** October 24, 2017

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

You and your spouse remain eligible to purchase a QHP at full cost.

You and your spouse's eligibility for APTC and CSR ended effective May 31, 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)).

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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**

The May 16, 2017 eligibility determination notice is AFFIRMED.

You and your spouse remain eligible to purchase a QHP at full cost.

You and your spouse's eligibility for APTC and CSR ended effective May 31, 2017.

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## **Legal Authority**

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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&btumi ama wo obi a okyerε 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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