



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

## Notice of Decision

Decision Date: November 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021588

[REDACTED]

Dear [REDACTED],

On October 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 19, 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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DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: November 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021588

[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 and your spouse were eligible to receive up to \$399.00 per month in an advance payments of the premium tax credit (APTC)?

## Procedural History

On August 15, 2017, you submitted an application for financial assistance through NYSOH.

Also on August 15, 2017 and August 16, 2017, you uploaded documentation to your NYSOH account (see Documents [REDACTED]).

On August 16, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan (QHP) at full cost, effective September 1, 2017.

Also on August 16, 2017, NYSOH issued a plan enrollment notice confirming that, as of August 15, 2017, you and your spouse were enrolled in a QHP with an enrollment start date of August 1, 2017.

On August 18, 2017, your account was updated. Based on that update, you and your spouse were determined temporarily eligible to enroll in a QHP with a \$399.00 monthly APTC, effective October 1, 2017.

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On August 18, 2017, you contacted NYSOH's Account Review Unit and requested an appeal relative to the amount of financial assistance you were determined eligible to receive.

On August 19, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive a tax credit up to \$399.00 per month for a limited time, effective October 1, 2017. The notice directed you to submit additional income documentation by November 16, 2017.

Also on August 19, 2017, NYSOH issued a plan enrollment notice confirming that as of August 18, 2017, you were enrolled in a QHP with an enrollment start date of October 1, 2017.

On October 31, 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 proceeding.

## **Findings of Fact**

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

- 1) According to your August 18, 2017 application, you were applying for health insurance for you and your spouse.
- 2) You testified that as of November 1, 2017, you were only applying for yourself.
- 3) According to your August 18, 2017 application, you attested that your annual income would be \$21,434.80, and your spouse's annual income would be \$41,475.00.
- 4) According to your August 18, 2017, application, you expected to file a 2017 federal income tax return with the tax status of married filing and did not expect to claim any dependents on that return.
- 5) You testified that you expect to deduct your mortgage interest payments on your federal income tax return.
- 6) According to your NYSOH account, you reside in [REDACTED], New York.
- 7) You testified you are unable to afford the health insurance premiums based on the amount of financial assistance you were determined eligible to receive.

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- 8) You testified that your spouse's income was consistent.
- 9) On September 11, 2017, you submitted four weekly paystubs from your spouse's employer, [REDACTED]. Your spouse was issued taxable gross income of:

- (a) \$ 649.75 on August 11, 2017;
- (b) \$ 724.85 on August 18, 2017;
- (c) \$ 628.80 on August 25, 2017;
- (d) \$1,398.64 on September 1, 2017;

(see Documents [REDACTED]).

- 10) On August 16, 2017, you submitted a letter stating, in relevant part, that your employment status with [REDACTED] had ended as of July 21, 2017, because of resignation, termination and/or job elimination (see Document [REDACTED]).
- 11) On August 15, 2017, you submitted an earnings statement, dated August 3, 2017, from [REDACTED]. It indicates that you were issued year-to-date gross pay of \$24,703.10, with \$5,537.88 excluded from federal taxable wages (see Document [REDACTED]).
- 12) You testified that you received your first Social Security Retirement Benefit in September 2017, and will receive \$1,464.00 per month.

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

## **Applicable Law and Regulations**

### Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses

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reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)).

Home mortgage interest payments may be itemized on a Form 1040 Schedule A; however, these expenses are not used to compute adjusted gross income (26 USC § 163(h); Internal Revenue Service (IRS) Publication 936 (2016)).

### Household Composition

For APTC and CSR, the household size equals the number of individuals for whom the taxpayers are allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

### Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) 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 QHP, 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)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

*minus*

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your

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application, that was the 2016 FPL, which is \$16,020.00 for a two-person household (81 Federal Register 4036).

For annual household income in the range of at least 300% but less than 400% of the 2016 FPL, the expected contribution is between 9.69% and 9.69% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2016-24).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

### Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible for up to \$399.00 of APTC per month.

Based on the application that was submitted on August 18, 2017, you attested to an expected annual household income of \$62,909.80, and the August 19, 2017, eligibility determination relied upon that information.

For an individual who expects to file a federal income tax return, the household equals the taxpayers and the number of individuals for whom the taxpayer is claiming as a dependent.

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You attested that you expect to file a 2017 federal income tax return, with the tax status of single, and did not expect to claim any dependents on that return. Therefore, you were in a two-person household.

You reside in [REDACTED], New York, where the second lowest cost silver plan available for a couple through NYSOH costs \$906.77 per month.

An annual income of \$62,909.80 is 392.70% of the 2016 FPL for a two-person household. At 392.70% of the FPL, the expected contribution is 9.69% of the household income, or \$508.00 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county (\$906.77 per month) minus your expected contribution (\$508.00 per month), which equals \$398.77 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$399.00 per month in APTC.

Therefore, the August 19, 2017 eligibility determination notice is AFFIRMED.

During the hearing, you testified that you were no longer applying for health insurance for your spouse.

You testified that your spouse's income was consistent. On September 11, 2017, you submitted four weekly paystubs from your spouse's employer, [REDACTED] (see Documents [REDACTED]). Based on that documentation, your spouse's annual household income is  $(\$649.75 + \$724.85 + 628.80 + 1,398.64) \times 13$  periods) \$44,226.52.

You submitted a letter stating that you were no longer employed with [REDACTED] as of July 21, 2017 (see Document [REDACTED]). Further, you submitted an earnings statement, dated August 3, 2017, indicating that you had been issued year-to-date federal taxable wages of  $(\$24,703.10 - \$5,537.88)$  \$19,165.22 (see Document [REDACTED]).

You testified that you received your first Social Security Retirement Benefit in September 2017, and receive \$1,464.00 per month. Therefore, you will receive  $(\$1,464.00 \times 4 \text{ months})$  \$5,856.00 in retirement benefits in 2017.

Based on the available record, your expected 2017 household income will be  $(\$44,226.52 + \$19,165.22 + \$5,856.00)$  \$69,247.74.

Therefore, your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a two-person household for an individual living in [REDACTED], NY, with a 2017 household income of \$69,247.74.

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).



## **Decision**

The August 19, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a two-person household for an individual living in [REDACTED], NY, with a 2017 household income of \$69,247.74.

**Effective Date of this Decision:** November 7, 2017

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

You and your spouse were properly determined eligible for up to \$399.00 monthly in 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
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

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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 August 19, 2017, eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on a two-person household for an individual living in [REDACTED], NY, with a 2017 household income of \$69,247.74.

You and your spouse were properly determined eligible for up to \$399.00 monthly in APTC.

## **Legal Authority**

We are sending you this notice 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।

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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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