



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

### Notice of Decision

Decision Date: December 6, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022946

[REDACTED]

[REDACTED]

On November 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 30, 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 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: December 6, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022946

[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 your enrollment in a qualified health plan and the application of advance payments of the premium tax credit were effective no earlier than November 1, 2017?

## Procedural History

On November 19, 2016, NYSOH issued a notice of eligibility redetermination stating that you and your husband were eligible to receive up to \$513.00 per month in advance payments of the premium tax credits (APTC) and, if you selected a silver-level qualified health plan, for cost-sharing reductions (CSR). This eligibility was effective January 1, 2017.

On November 19, 2016, NYSOH issued a letter confirming your and your husband's enrollment in a qualified health plan with a monthly premium of \$449.41 after the application of \$513.00 was applied, both effective January 1, 2017.

On December 1, 2016, NYSOH issued a notice stating you had changed your mailing address to [REDACTED]

On August 24, 2017, NYSOH issued a notice of eligibility redetermination stating you and your husband were eligible for APTC up to \$321.00 per month, effective October 1, 2017.

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On August 24, 2017, NYSOH issued a notice stating you changed your mailing address to [REDACTED]

On August 25, 2017, NYSOH issued a disenrollment notice cancelling your and your husband's enrollment in your silver level qualified health plan, effective September 30, 2017. The notice stated this was because you told NYSOH you moved to another county.

On September 1, 2017, NYSOH issued a notice of eligibility redetermination stating you and your husband were eligible to receive up to \$288.00 per month in APTC, October 1, 2017. The notice was issued to your prior address [REDACTED]

On September 1, 2017, NYSOH issued an enrollment notice confirming your and your husband's enrollment in a silver level qualified health plan with a start date of October 1, 2017. The notice was issued to your prior address [REDACTED]

On September 7, 2017, NYSOH issued a notice stating you updated your mailing address in your account.

On September 21, 2017, NYSOH issued an enrollment notice confirming your and your husband's enrollment in a silver level qualified health plan with APTC effective October 1, 2017.

On September 21, 2017, your and your husband's eligibility were redetermined. NYSOH prepared a preliminary eligibility determination stating you and your husband were newly eligible to purchase a qualified health plan at full cost, effective November 1, 2017. The notice stated you and your husband were no longer eligible for APTC because NYSOH sent you information, including notices about your eligibility and coverage, by U.S. mail to the mailing address you provided in your account but they were returned as undeliverable.

On September 26, 2017, you updated your application for you and your husband and a preliminary eligibility determination was prepared stating you and your husband were eligible for APTC up to \$288.00 per month, effective November 1, 2017.

On September 29, 2017, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination and enrollment confirmation notices insofar as they began your financial assistance eligibility on November 1, 2017 and not October 1, 2017.

On September 30, 2017, NYSOH issued a notice of eligibility determination, based on the September 21, 2017 redetermination, stating you and your husband were newly eligible to purchase a qualified health plan at full cost,

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effective November 1, 2017. The notice stated you and your husband were no longer eligible for APTC because NYSOH sent you information, including notices about your eligibility and coverage, by U.S. mail to the mailing address you provided in your account but they were returned as undeliverable.

On October 1, 2017, NYSOH issued a notice of eligibility determination, based on the September 26, 2017 update, stating you and your husband were eligible for APTC up to \$288.00 per month, effective November 1, 2017.

On November 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you withdrew your second appeal request for [REDACTED]. A notice was issued confirming your withdrawal. 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 submitted an application to NYSOH for financial assistance on August 31, 2017.
- 2) You and your husband were determined eligible for APTC up to \$280.00 per month, effective October 1, 2017.
- 3) You testified you moved in June 201 [REDACTED]  
[REDACTED]
- 4) You updated your address on August 24, 2017 with your [REDACTED].
- 5) The eligibility determination notice and enrollment notice issued on September 1, 2017 was addressed to your [REDACTED]
- 6) You and your husband's eligibility was redetermined on September 21, 2017 as being ineligible for APTC because mail was sent back to NYSOH as undeliverable.
- 7) NYSOH received return mail from your [REDACTED] including the September 1, 2017 enrollment notice.
- 8) Returned mail was received September 5, 6, 7, 11, 21, and October 6, 10, and 19, 2017.
- 9) You testified you want your APTC eligibility to begin October 1, 2017 instead of November 1, 2017.

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

## **Applicable Law and Regulations**

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of APTC for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for that benefit year (45 CFR § 155.330(g)).

### 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)).

### Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your and your husband's application of APTC, was effective no earlier than November 1, 2017.

You and your husband were determined eligible to receive up to \$513.00 per month in APTC and, if you selected a silver-level qualified health plan, CSR, effective January 1, 2017. You enrolled in a qualified health plan for a start date of January 1, 2017.

On August 24, 2017, you updated the information in your NYSOH account including updating your address that day from [REDACTED] [REDACTED]. You and your husband were redetermined eligible to receive up to \$288.00 per month in APTC, effective October 1, 2017. The notice confirming your update in eligibility was issued to your prior address [REDACTED].

The notices that were sent to your [REDACTED] were subsequently returned to NYSOH as undeliverable. Your eligibility was redetermined on September 21, 2017 as ineligible to receive APTC, because NYSOH had received returned mail from your address on file.

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change. Because the redetermination notice was issued on September 30, 2017, you were determined ineligible for APTC as of October 1, 2017. You did not update the application until September 26, 2017 at which point you were determined eligible for APTC as of November 1, 2017.

However, NYSOH requires an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change. You updated your application on August 24, 2017 with your new address and NYSOH continued to improperly issue determinations to your prior address after this date, leading to the termination of your APTC as a result of the returned mail through no fault of your own.

Therefore, the September 30, 2017 redetermination notice finding you and your husband eligible to purchase a qualified health plan at full cost, effective November 1, 2017, is RESCINDED.

Your case is RETURNED to NYSOH to backdate your and your husband's eligible for APTC of up to \$280.00 per month for the month of October 2017.

## **Decision**

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).

The September 30, 2017 redetermination notice is RESCINDED.

Your case is RETURNED to NYSOH to backdate your and your husband's eligible for APTC of up to \$280.00 per month for the month of October 2017.

**Effective Date of this Decision:** December 6, 2017

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

You and your husband's eligibility for APTC should not have been terminated as of October 1, 2017.

Your case is being sent back to NYSOH to reinstate your and your husband's eligibility for APTC for the month of October 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

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).



- 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 September 30, 2017 redetermination notice is RESCINDED.

Your case is RETURNED to NYSOH to backdate your and your husband's eligible for APTC of up to \$280.00 per month for the month of October 2017.

You and your husband's eligibility for APTC should not have been terminated as of October 1, 2017.

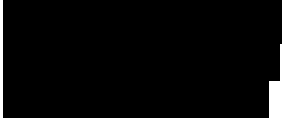
Your case is being sent back to NYSOH to reinstate your and your husband's eligibility for APTC for the month of October 2017.

### **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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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