



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
PO Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: January 25, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023035

[REDACTED]

[REDACTED]

On December 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 30, 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  
PO 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(b).

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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## Decision

Decision Date: January 25, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023035



## 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's eligibility for advance premium tax credits and cost-sharing reductions ended effective November 1, 2017?

## Procedural History

On November 16, 2016, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to receive advance payments of the premium tax credit (APTC) of up to \$701.25 per month and eligible for cost sharing reductions in you enrolled in a silver-level qualified health plan (QHP), effective January 1, 2017.

On November 30, 2016, an enrollment notice was issued confirming your and your spouse's enrollment in a silver-level QHP for a cost of \$211.66 per month, after the application of APTC, starting January 1, 2017.

On January 24, 2017, NYSOH issued a Form 1095-A, Health Insurance Marketplace Statement for year 2016, which confirmed your and your spouse's receipt of APTC during 2016.

On September 19, 2017 NYSOH received an updated application for financial assistance for you and your spouse.

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).

On September 30, 2017 NYSOH issued an eligibility determination notice, based on the updated September 19, 2017 application, stating that you and your spouse were newly eligible to purchase a QHP at full cost through NYSOH, effective November 1, 2017. The notice further stated you and your spouse were not eligible for a tax credit, because you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

Also on September 30, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in your silver-level QHP plan at full cost and that you must pay the monthly premium to keep your coverage.

On October 2, 2017, you spoke to NYSOH's Account Review Unit and appealed this determination insofar as you and your spouse were no longer eligible to receive APTC.

On December 15, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until December 29, 2017, to allow you to submit supporting documentation. On December 21, 2017, NYSOH Appeals Unit received via secure facsimile your 10-page submission including a copy of your 2016 tax return and attached forms. These documents are collectively marked as Appellant's Exhibit #1 and are included in the record. The record was closed at that time.

## **Findings of Fact**

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

- 1) You are seeking that you and your spouse be found eligible for APTC for November 2017 and December 2017.
- 2) Your NYSOH account reflects that APTC was paid on you and your spouse's behalf in 2016.
- 3) According to your NYSOH account, as of your September 19, 2017 application, NYSOH found you and your spouse ineligible for APTC because information from state and federal data sources indicated you did not file a tax return for 2016, a year for which you received APTC.
- 4) According to your testimony, you were on extension to file your 2016 tax returns.
- 5) The documentation you submitted in Appellant's Exhibit # 1 indicates you filed a request for an extension for your NY State tax return, but there is

no documentation regarding your request for an extension to file your 2016 federal tax return.

- 6) According to the documentation your submitted, you filed your 2016 federal tax return with Form 8962 Premium Tax Credit on November 9, 2017.
- 7) You testified that you and your spouse file your tax returns with a tax filing status of married filing jointly.
- 8) You testified that you did not pay for the silver-level QHP for you and your spouse for November 2017 and December 2017 because you could not afford to pay the full cost of the plan.
- 9) You testified that you and your spouse did not have any medical bills for November 2017 and no bills had been incurred as of the December 15, 2017 hearing.
- 10) Your application states that you and your spouse live in Westchester County.
- 11) You testified that you want you and your spouse to be eligible for APTC for the months of November 2017 and December 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)).

NYSOH may not authorize APTC when it was paid on behalf of the tax filer or it's spouse, for a year which the tax data would be utilized for verification of household income and size, and that tax filer and his spouse did not file a tax return for that year (45 CFR § 155.305(f)(4)).

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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 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 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 CFR § 155.310(f), 45 CFR § 155.330(e)(f)(1)(i)).

### Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

### Redetermination During a Benefit Year

Upon making an eligibility redetermination, NYSOH must notify the applicant, and it must implement any decreases in eligibility to receive APTC effective as of the first day of the month following the date of the notice if the change occurs on or before the 15th of the month; otherwise, the change becomes effective the first day of the second following month (45 CFR § 155.310(f), 45 CFR § 155.330(f)(1)(i) and (f)(3)). Increases become effective the first day of the following month, regardless of when during the month the change occurs (*id.*).

## Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were eligible to purchase a QHP at full cost through NYSOH and not eligible for APTC or cost-sharing reductions, effective November 1, 2017.

On September 19, 2017, NYSOH received your updated application for financial assistance for you and your spouse.

On September 30, 2017, NYSOH issued an eligibility determination based on the September 19, 2017 application, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective November 1, 2017, and ineligible to receive APTC or cost-sharing reductions. This was because APTC was paid to your health insurance company on your and your spouse's behalf in a prior year and NYSOH could not ascertain if a federal tax return was filed for that year.

You testified that you filed a request for an extension to file your 2016 federal tax return. The documents you submitted indicate you filed with NY State for an extension to file your state tax return, but there was no documentation submitted to show that you filed for an extension on your 2016 federal tax return. Also, the documentation you submitted in Appellant's Exhibit # 1 indicate that you did not file your 2016 federal tax return until November 9, 2017.

Therefore, at the time of your and your spouse's September 19, 2017 application and resulting September 30, 2017 eligibility determination notice, you had not yet filed your 2016 tax return, and the data sources NYSOH relied on to make its determination were correct. As such, NYSOH properly found that you and your spouse were no longer eligible for APTC. Individuals who are not eligible for APTC are not eligible for cost-sharing reductions.

When a redetermination results in a decreased amount of APTC or change in the level of cost-sharing reductions, the effective date of that change depends on the date the redetermination occurred. A redetermination resulting in a decrease in the amount of APTC to which you are entitled is not effective until the first day of the second month following any redetermination issued after the 15<sup>th</sup> of any month.

Since your eligibility was redetermined on September 19, 2017, NYSOH properly determined you and your spouse eligible to purchase a QHP at full cost, effective November 1, 2017, which is the second month following the determination of eligibility decreasing your eligibility for APTC. The September 30, 2017, eligibility determination is AFFIRMED.

This decision does not affect any subsequent eligibility determination or enrollment confirmation notices issued by NYSOH.

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**IMPORTANT:** A person who received less tax credit than the 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 the maximum entitlement, based on gross income, will owe the excess as an additional income tax liability.

## **Decision**

The September 30, 2017, eligibility determination notice is **AFFIRMED**.

This decision does not affect any subsequent eligibility determination or enrollment confirmation notices issued by NYSOH.

**Effective Date of this Decision:** January 25, 2018

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

You and your spouse were eligible for a full cost QHP effective November 1, 2017.

Your and your spouse's eligibility for APTC and cost sharing reductions ended as of October 31, 2017.

This decision does not affect any subsequent eligibility determination or enrollment confirmation notices issued by NYSOH.

## **If You Disagree with this Decision (Appeal Rights)**

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your appeal was decided, the 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.

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 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):**

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  
PO Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

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## **Summary**

The September 30, 2017, eligibility determination notice is AFFIRMED.

This decision does not affect any subsequent eligibility determination or enrollment confirmation notices issued by NYSOH.

You and your spouse were eligible for a full cost QHP effective November 1, 2017.

Your and your spouse's eligibility for APTC and cost sharing reductions ended as of October 31, 2017.

This decision does not affect any subsequent eligibility determination or enrollment confirmation notices issued by NYSOH.

## **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 مجانًا.

### **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 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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.