



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

## Notice of Decision

Decision Date: January 19, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023959

[REDACTED]

On January 4, 2018, 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 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.

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## Decision

Decision Date: January 19, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023959



## 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 payments of the premium tax credit (APTC) ended effective October 1, 2017?

## Procedural History

According to your NYSOH account, on January 30, 2017, you and your spouse were found eligible to share in up to \$554.00 per month in APTC as of March 1, 2017. You and your spouse enrolled in a platinum-level qualified health plan (QHP) with a monthly premium of \$938.00 after your monthly APTC of \$554.00 was applied, effective March 1, 2017.

On September 30, 2017, NYSOH issued an eligibility determination notice based on your September 29, 2017 updated application, stating that you and your spouse were newly eligible to purchase a QHP at full cost, effective November 1, 2017. The notice stated that you and your spouse were not eligible to receive APTC because you planned to file your taxes separately from your spouse.

Also on September 30, 2017, NYSOH issued a plan enrollment notice confirming in part, you and your spouse's selection of platinum-level QHP, at the full monthly premium amount of \$1,492.00, effective March 1, 2017.

On October 7, 2017, NYSOH issued an eligibility determination notice, based on your October 6, 2017 updated application, stating that you and your spouse were

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to eligible to share in up to \$607.00 per month in APTC and cost-sharing reductions if you enrolled in a silver-level QHP, effective November 1, 2017.

On October 8, 2017, 2017, NYSOH issued a plan enrollment notice stating that you and your spouse were enrolled in a platinum-level QHP with a monthly premium of \$885.00 after your APTC of \$607.00 was applied, effective November 1, 2017.

On November 2, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your and your spouse's APTC was not applied to your October 2017 premium.

On January 4, 2018, 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 hearing.

## **Findings of Fact**

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

- 1) According to your NYSOH account, on January 30, 2017, you and your spouse were found eligible for APTC as of March 1, 2017.
- 2) According to your NYSOH account and your testimony, you updated you updated your application on September 29, 2017, and changed your and your spouse's tax status in your application from married filing jointly to married filing single.
- 3) You testified that, since your spouse was no longer working, you believe that this was the correct thing to do at the time.
- 4) Your NYSOH account indicates that, on September 29, 2017, your eligibility was redetermined as a result of your updated account information and you and your spouse were found no longer eligible for APTC as of November 1, 2017.
- 5) You testified that your health plan took away your financial assistance (APTC) for the month of October 2017, and that you had to pay a bill to them in the increased amount of \$554.00, which is the amount of APTC you and your spouse were initially found eligible to receive.
- 6) You testified that you called NYSOH and were advised by a representative that, because you had changed your tax filing status to

married filing single, you and your spouse lost your financial assistance from NYSOH.

- 7) You testified that you and your spouse plan to file your 2017 income tax return with a tax filing status of married filing jointly.
- 8) On October 6, 2017, you updated you and your spouse's account and were again found eligible for APTC at an increased amount of \$607.00, effective November 1, 2017.
- 9) You testified that you are seeking to have you and your spouse's APTC reinstated for the month of October 2017.
- 10) You further testified that you are satisfied with you and your spouse's current health coverage.

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

## **Applicable Law and Regulations**

### Advance Payments of the Premium Tax Credit

APTC is 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 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)).

Additionally, a tax filer who is married must file a joint return with his or her spouse to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
  - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;

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- b. pays more than one half of the cost of keeping up his/her home for the tax year; and
- c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

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)).

### End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her 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 his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your and your spouse's eligibility for APTC ended effective October 1, 2017.

In the eligibility determination notice issued on September 30, 2017, NYSOH denied you and your spouse APTC because you indicated that you were married but did not plan to file a joint federal income tax return.

To qualify for APTC, a person who is married must either file taxes jointly with his or her spouse or qualify as "not married" at the close of the tax year.

According to the information in the record and your testimony at the hearing, you are still married to your spouse and you plan on filing married filing jointly in 2017. However, you updated the application on September 29, 2017 to indicate that you and your spouse plan on filing your tax return with a tax status of married filing separately in 2017, because you believed that this was correct at the time. Because this is not an error or mistake of NYSOH, its agents or instrumentalities, NYSOH was correct when it found that you and your spouse were not eligible for APTC due to your tax filing status.

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However, any changes in APTC are to be made effective the date following the eligibility determination notice. Accordingly, you and your spouse's eligibility for APTC should have ended as of October 1, 2017, the month following the issuance of the September 30, 2017 eligibility determination notice.

As such, the September 30, 2017 eligibility determination notice is MODIFIED to state that you and your spouse are newly eligible to purchase a QHP at full cost, effective October 1, 2017.

Lastly, it is noted that, at the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. The amount of APTC to which you and your spouse were entitled can be reconciled at the time you file your 2017 federal tax return.

## **Decision**

The September 30, 2017 eligibility determination notice is MODIFIED to state that you and your spouse are newly eligible to purchase a QHP at full cost, effective October 1, 2017.

This Decision does not affect any subsequent eligibility redeterminations made by NYSOH.

**Effective Date of this Decision:** January 19, 2018

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

You and your spouse were not eligible to receive APTC, effective October 1, 2017.

This Decision does not change your and your spouse's current eligibility.

The amount of APTC to which you and your spouse were entitled in 2017 can be reconciled at the time you file your 2017 federal tax return.

## **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):**

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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The September 30, 2017 eligibility determination notice is MODIFIED to state that you and your spouse are newly eligible to purchase a QHP at full cost, effective October 1, 2017.

This Decision does not affect any subsequent eligibility redeterminations made by NYSOH.

You and your spouse were not eligible to receive APTC effective October 1, 2017.

This Decision does not change you and your spouse's current eligibility.

The amount of APTC to which you and your spouse were entitled in 2017 can be reconciled at the time you file your 2017 federal tax return.

## **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।

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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&etumi 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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