



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

## Notice of Decision

Decision Date: January 17, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024305

[REDACTED]

[REDACTED]

On January 5, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2017 enrollment confirmation 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: January 17, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024305

[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 (QHP) with the application of advance payments of the premium tax credit (APTC) was effective no earlier than December 1, 2017?

## Procedural History

On October 12, 2017, you updated your application for financial assistance with health insurance.

On October 13, 2017, NYSOH issued a notice of eligibility determination showing that you were eligible to receive up to \$282.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver level QHP, effective November 1, 2017. The notice also stated that you were no longer eligible for the Essential Plan as of October 31, 2017.

Also on October 13, 2017, NYSOH issued a notice confirming your enrollment in a Fidelis silver level QHP with a monthly premium responsibility of \$456.46, and \$0.00 of your APTC applied, beginning November 1, 2017.

That same day, NYSOH issued a disenrollment notice, stating that your enrollment in your Essential Plan coverage was ending as of October 31, 2017 because you were no longer eligible to enroll in that coverage.

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On November 9, 2017, you updated your NYSOH account.

On November 10, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$282.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver level QHP, both effective December 1, 2017.

Also on November 10, 2017, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in your Fidelis silver level QHP, beginning November 1, 2017, and your enrollment with your APTC of \$282.00 applied to your monthly premium beginning December 1, 2017.

On November 13, 2017, you spoke to NYSOH's Account Review Unit and appealed the November 10, 2017 enrollment confirmation notice, insofar as the application of your APTC to your monthly QHP premium began on December 1, 2017, and not November 1, 2017.

On January 5, 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 support the following findings of fact:

- 1) You submitted an updated application to NYSOH for financial assistance on October 12, 2017.
- 2) You testified that you did your application update online because you were trying to renew your son's coverage, and you ended up updating your application as well.
- 3) You testified that you were not aware that they type of financial assistance you qualified for had changed, and that you thought you had been receiving a tax credit previously.
- 4) Your NYSOH account reflects that you were enrolled in Essential Plan coverage until October 31, 2017.
- 5) You testified that NYSOH's website is confusing and that maybe you somehow did not apply the tax credit to your plan, though you thought you did what you needed to do.

- 6) You testified that when you received a notice stating that you had to pay a premium of over \$400.00, you called NYSOH to find out why, and you were told that your tax credit had not been applied to your plan.
- 7) You testified that you do not have any idea when you first spoke to NYSOH, but that it may have been on the day you updated your application, which was October 12, 2017.
- 8) After the hearing, the Hearing Officer requested a list of any phone calls you made to NYSOH's Customer Service line during October 2017. The list indicated that you made one call to NYSOH on October 20, 2017.
- 9) You testified that, the first time that you spoke to NYSOH, you were informed by the representative you spoke with that they could go ahead and apply your APTC to your November 2017 premium.
- 10) You testified that you paid a partial premium to Fidelis for the month of November 2017, and that the amount you paid was \$174.46, which is the amount you would have owed if your APTC had been applied to your premium.
- 11) You testified that Fidelis is still billing you for the remainder of the premium.
- 12) You testified that you did not use your medical coverage in the month of November 2017.
- 13) You testified, and your NYSOH account confirms, that you are not eligible for, and enrolled in, the Essential Plan, as of January 1, 2018.

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 because 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 advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must

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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)).

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).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your APTC was applied to your monthly QHP premium as of December 1, 2017.

The record shows that on October 12, 2017, you updated the information in your NYSOH account and submitted a request to enroll in a QHP. On October 13, 2017, NYSOH issued an enrollment confirmation notice stating that your enrollment in your QHP was effective November 1, 2017. However, the notice indicated that no APTC would be applied to your monthly premium. On November 9, 2017, your application and enrollment were updated again. As a result, on November 10, 2017, NYSOH issued a notice of enrollment confirmation, again confirming that you were enrolled in a QHP as of November 1, 2017, but also indicating that your APTC of \$282.00 was being applied to your monthly premium beginning December 1, 2017.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Because you updated your application on November 9, 2017 and indicated in that update that you wanted your full monthly APTC of \$282.00 to be applied to your premium, your enrollment with the application of your APTC properly went into effect on December 1, 2017, based on the date you made changes to your account.

However, the Appeals Unit of NYSOH has no ability to see your October 12, 2017 application, or your responses to any questions, as it appeared to you when

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you were updating your NYSOH account. As such, the Appeals Unit cannot confirm that the October 13, 2017 enrollment confirmation notice, stating that none of your APTC would be applied to your November 2017 QHP premium, accurately reflects the choices you made in your October 12, 2017 application. Therefore, there is no evidence in your account to contradict your testimony that the application process and that you thought the application of the tax credit was in plan.

For this reason, and because you were entitled to APTC in the month of November 2017 and enrolled in a QHP during that month, the November 10, 2017 enrollment confirmation notice is MODIFIED to state that you were enrolled in your Fidelis silver level QHP, with the application of your \$282.00 APTC to your monthly premium, beginning December 1, 2017.

Your case is RETURNED to NYSOH so that your APTC of \$282.00 can be applied to your November 2017 QHP premium.

## **Decision**

The November 10, 2017 enrollment confirmation notice is MODIFIED to state that you were enrolled in your Fidelis silver level QHP, with the application of your \$282.00 APTC to your monthly premium, beginning November 1, 2017.

Your case is RETURNED to NYSOH to effectuate this change.

**Effective Date of this Decision:** January 17, 2018

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

Your case is being sent back to NYSOH to ensure that your \$282.00 APTC is applied to your November 2017 QHP premium.

## **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.

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

### **Summary**

The November 10, 2017 enrollment confirmation notice is MODIFIED to state that you were enrolled in your Fidelis silver level QHP, with the application of your \$282.00 APTC to your monthly premium, beginning November 1, 2017.

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).



Your case is RETURNED to NYSOH to effectuate this change.

Your case is being sent back to NYSOH to ensure that your \$282.00 APTC is applied to your November 2017 QHP premium.

### **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.