



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

## Notice of Decision

Decision Date: March 01, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024430

[REDACTED]

Dear [REDACTED]

On January 11, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 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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STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: March 01, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024430



## 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 were eligible to purchase a qualified health plan at full cost through NYSOH, and not eligible for advanced payments of the premium tax credit or cost-sharing reductions, effective January 1, 2018?

## Procedural History

On September 8, 2016, NYSOH issued an eligibility determination notice stating you were eligible to receive advance payments of the premium tax credit (APTC) of up to \$106.00 per month, effective October 1, 2016.

Also on September 8, 2016, an enrollment notice was issued confirming your enrollment in a bronze-level QHP for a cost of \$314.40 per month, after the application of APTC, starting October 1, 2016.

On January 26, 2017, NYSOH issued a Form 1095-A, Health Insurance Marketplace Statement for year 2016, which confirmed your receipt of APTC during 2016.

On November 16, 2017, you updated your application for financial assistance with health insurance for 2018. That day, NYSOH issued a preliminary eligibility determination stating that you were not eligible to receive help paying for your health insurance coverage; however, you could purchase a qualified health plan at full cost through NYSOH.

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Also on November 16, 2017, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination notice insofar as you were found ineligible for APTC.

On November 17, 2017, NYSOH issued an eligibility determination notice, based on the November 16, 2017 application, stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018. The notice further stated you 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 APTC payments were made to a health insurance company to reduce your premium costs in a prior year and NYSOH could not determine if a federal tax return was filed for that year.

Also on November 17, 2017, NYSOH issued an enrollment confirmation notice stating that you were enrolled in your silver-level QHP plan at full cost with a plan enrollment start date of January 1, 2018 at full cost and that you must pay the monthly premium to keep your coverage.

On January 11, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to January 26, 2018, to allow you time to submit supporting documents.

On February 16, 2018 the Appeals Unit called and left a message for you stating that the Hearing Officer was inquiring if you had submitted a request for a transcript for your 2016 income tax return and if so, if you were still waiting for a response from the IRS. The message further stated that if you were waiting for the 2016 income tax return transcript that you needed to submit a written request to the Appeals Unit for additional time. The Appeals Unit secure facsimile number was provided to you in this message. As of February 26, 2018, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

## **Findings of Fact**

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

- 1) You are seeking to be found eligible for APTC for 2018 coverage year.
- 2) Your NYSOH account reflects that APTC was paid on your behalf in 2016.
- 3) You testified that you moved to New York State from North Carolina in August 2016. You testified that you had health insurance through the Marketplace when you lived in North Carolina.

- 4) You testified that you anticipate filing your 2018 tax return as single and will claim no dependents on that tax return.
- 5) According to your NYSOH account and your testimony, your only source of income is \$2,450.00 in monthly alimony you receive for a total yearly income of \$29,400.00.
- 6) According to your NYSOH account, as of your November 17, 2017 application, NYSOH found you 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.
- 7) Your application states that you will not be taking any deductions on your 2018 tax return.
- 8) You testified that you filed a 2016 income tax return.
- 9) Your application states that you live in Suffolk County, New York.

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 the taxpayer's spouse for a year which the tax data would be utilized for verification of household income and size, and that tax filer and/or spouse did not file a tax return for that year to reconcile the receipt of APTC (45 CFR § 155.305(f)(4)).

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 federal income tax return). Those who take less tax credit in advance than they can claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who

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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).

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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were eligible to purchase a QHP at full cost through NYSOH and not eligible for APTC or cost-sharing reductions, effective January 1, 2018.

On November 16, 2017, NYSOH received your updated application for financial assistance for 2018. On November 17, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018, and ineligible to receive APTC or cost-sharing reductions. This was because APTC was paid to a health insurance company on your behalf in a prior year and NYSOH could not ascertain if a federal tax return was filed for that year.

At the time of your November 16, 2017 application, NYSOH had not received information from the IRS that your household's tax return for 2016 had been properly filed or reconciled. If NYSOH is unable to obtain information that a prior year's tax return has been filed, NYSOH may not determine a tax filer eligible for APTC, if APTC was paid on the tax filer's behalf in a previous year.

Although you testified that you filed your 2016 tax return, the Hearing Officer requested that you submit a copy of your 2016 IRS tax transcript and left the record open until January 26, 2018 to allow you to submit this documentation. On February 16, 2018 the Appeals Unit called and left a message for you stating that the Hearing Officer was inquiring if you had submitted a request for a transcript for your 2016 income tax return and if so, were you still waiting for a response from the IRS. The message further stated that if you were waiting for the 2016 income tax return transcript that you needed to submit a written request to the Appeals Unit for additional time. The Appeals Unit secure facsimile number was provided to you in this message. As of February 26, 2018, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed on February 26, 2017 and this decision is based on the record as developed at the time of the hearing. Therefore, the record reflects that you have not submitted sufficient proof that you filed your 2016 tax return and that the APTC that you received in 2016 was reconciled on that return.

As you received APTC in 2016 and there is insufficient evidence in the record to demonstrate that your 2016 tax return was submitted or was reconciled for the APTC you received in that year, the November 17, 2017 eligibility determination finding you eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018, and ineligible to receive APTC or cost-sharing reductions is **AFFIRMED**.

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

However, as you testified that your 2016 tax return was filed, the IRS may have since updated its electronic data sources. Therefore, your case is **RETURNED** to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2016 tax return, and to determine if you are now eligible for financial assistance with health insurance.

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 November 17, 2017 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2016 tax return, and to determine if you are now eligible for financial assistance with health insurance.

**Effective Date of this Decision:** March 01, 2018

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

You remain eligible to purchase a qualified health plan at full cost through NYSOH.

Your case is being sent back to NYSOH to determine if the IRS data sources now reflect that you filed your 2016 tax return, and if so, to redetermine your eligibility for financial assistance with health insurance.

## **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 case 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.

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

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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 17, 2017 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2016 tax return, and to determine if you are now eligible for financial assistance with health insurance.

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 remain eligible to purchase a qualified health plan at full cost through NYSOH.

Your case is being sent back to NYSOH to determine if the IRS data sources now reflect that you filed your 2016 tax return, and if so, to redetermine your eligibility for financial assistance with health insurance.

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