



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

## Notice of Decision

Decision Date: February 23, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024666

[REDACTED]

[REDACTED]

On January 12, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 31, 2017 preliminary 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  
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).

This page intentionally left blank.



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

## Decision

Decision Date: February 23, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024666

[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 the application of up to \$226.00 per month in advance payments of the premium tax credit (APTC) to your qualified health plan premium ended as of November 1, 2017?

## Procedural History

On October 31, 2017, you submitted three applications for financial assistance with health insurance.

Also on October 31, 2017, a preliminary determination was made, based on the first application you submitted that day, stating that you were eligible to purchase a qualified health plan at full cost, effective November 1, 2017.

Also on October 31, 2017, a preliminary determination was made, based on the second application you submitted that day, stating that you were eligible to receive up to \$134.00 per month in APTC, effective November 1, 2017.

Also on October 31, 2017, a preliminary determination was made, based on the third and final application you submitted that day, stating that you were eligible to receive up to \$226.00 per month in APTC, effective November 1, 2017.

On November 1, 2017, NYSOH issued an eligibility determination notice, based on the last application submitted on October 31, 2017, stating that you were

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).

eligible to receive up to \$226.00 per month in APTC. This eligibility was effective November 1, 2017.

Also on November 1, 2017, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in a qualified health plan with a monthly premium responsibility of \$382.58, after your APTC of \$0.00 was applied, both effective September 1, 2017.

On November 15, 2017, you submitted an updated application for financial assistance with health insurance.

On November 16, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible to receive up to \$189.00 in APTC. This eligibility was effective December 1, 2017.

Also on November 16, 2017, NYSOH issued an enrollment confirmation notice, stating that you were enrolled in a qualified health plan with a monthly premium responsibility of \$382.58, after your APTC of \$0.00 was applied, both effective September 1, 2017.

Also on November 21, 2017 you spoke to NYSOH's Account Review Unit and appealed insofar as APTC was not applied to your premium for November and December 2017.

On January 12, 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) Your account states that you intend to file your 2018 tax return with a tax filing status of single and that you will claim no dependents on that tax return.
- 2) On October 31, 2017, three applications for financial assistance with health insurance were submitted. The first application includes an annual expected household income of \$50,000.00. The second application lists an annual expected household income of \$40,000.00. The third application lists an annual expected household income of \$31,746.00.
- 3) A preliminary determination based on the first application submitted on October 31, 2017 stated that you were not eligible for financial assistance for health insurance coverage, effective 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).

- 4) You testified that the NYSOH representative did not properly account for the inconsistency of your pay when originally calculating your income, which resulted in multiple income projections. You testified that your last paystub in 2017 showed year to date earnings around \$32,000.00.
- 5) You testified, and the record reflects, that you have not had a gap in coverage for 2017.
- 6) The record contains no notice issued by NYSOH stating that you were not eligible for financial assistance in the month of January 2018.
- 7) The record reflects that APTC was not applied to your monthly premium for November and December 2017. You testified that you have been billed by your health plan for the full cost of the premium for those months.
- 8) You testified that you are seeking the application of APTC to your premiums for November 2017 and December 2017.
- 9) You testified that you need your APTC applied to your premium in November and December 2017 because you cannot afford the full premium payment.

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

## **Applicable Law and Regulations**

### Advance Payments of 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), 26 CFR § 1.36B-2, 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2017 FPL, which is \$12,060.00 for a one-person household (82 Federal Register 8831).

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).

### Effective Date of Advance Payments of the Premium Tax Credits

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not 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 the overall benefit year (45 CFR § 155.330(g)).

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)). NYSOH is then required to provide timely written notice of the eligibility redetermination to the individual (45 CFR § 155.310(g)).

### 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 eligibility for an APTC of up to \$226.00 per month ended as of November 1, 2017.

The record shows that on October 31, 2017, you updated the information in your NYSOH account three separate times.

On November 1, 2017, NYSOH issued an enrollment confirmation notice stating that your enrollment in your qualified health plan was effective September 1, 2017 and that \$0.00 in APTC would be applied to your monthly premium.

The record reflects that \$0.00 in APTC was applied to your monthly premiums in November 2017 and December 2017, and you testified that you were billed for the full cost of your premium for those months.

On October 31, 2017 you submitted three applications of financial assistance containing updated income information. The first application from October 31, 2017 listed an annual household income of \$50,000.00. This application resulted in a preliminary eligibility determination finding you eligible for a full cost qualified health plan, and not eligible for financial assistance.

You are in a one-person household as you expect to file your taxes as single and claim no dependents.

APTC is available to a person who meets the non-financial requirements and has a modified adjusted gross income that is between 200% and 400% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$12,060.00 for a one-person household. Since an annual income of \$50,000.00 is 414.59% of the 2017 FPL, you would have been ineligible for APTC based on the information you submitted on your first October 31, 2017 application.

When a redetermination of APTC is made 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. Accordingly, since you updated your account on October 31, 2017 any changes in your APTC would have properly been made effective as of November 1, 2017.

However, you credibly testified that the NYSOH representative did not properly account for the inconsistency of your pay when originally calculating your income, which resulted in multiple income projections. The final application listed an annual expected income of \$31,746.00. You testified that your last paystub in 2017 showed year to date earnings around \$32,000.00.

Therefore, the first application that was filed on October 31, 2017 is not supported by the record and should not have been relied upon by NYSOH when making a preliminary eligibility determination that day.

Since NYSOH improperly relied upon the first application that was filed on October 31, 2017 to determine your eligibility for November 2017, the October 31, 2017 preliminary eligibility stating that you were eligible to purchase a full pay qualified health plan, and not eligible for APTC is **RESCINDED**.

However, because it is past the end of the 2017 policy year, no further action by NYSOH is required as of this Decision. Instead, 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, as in your case. Conversely, if a person received more APTC than their maximum

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).

entitlement, based on gross income, they might owe the excess as an additional income tax liability. The amount of APTC to which you were entitled can be reconciled at the time you file your 2017 federal tax return.

## **Decision**

The October 31, 2017 preliminary eligibility determination stating that you were eligible to purchase a qualified health plan at full cost is **RESCINDED**.

Although NYSOH improperly terminated your APTC for November and December 2017, your APTC for 2017 can be reconciled when you file your federal income tax return for 2017.

**Effective Date of this Decision:** February 23, 2018

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

NYSOH improperly terminated your APTC for November and December 2017.

The amount of APTC to which you should have been entitled to receive in 2017, can be reconciled when you file your federal income tax return for 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:

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 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 October 31, 2017 preliminary eligibility determination stating that you were eligible to purchase a qualified health plan at full cost is **RESCINDED**.

Although NYSOH improperly terminated your APTC for November and December 2017, your APTC for 2017 can be reconciled when you file your federal income tax return for 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।

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).

## **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 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.

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).