



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

## Notice of Decision

Decision Date: February 6, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024816

[REDACTED]

[REDACTED]

On January 12, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 25, 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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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024816

[REDACTED]

[REDACTED]

### Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you were not eligible for advance payments of the premium tax credit or cost-sharing reductions, effective January 1, 2018?

### Procedural History

On November 25, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on the information contained in the November 24, 2017 updated application, stating you were eligible to purchase a qualified health plan at full cost beginning January 1, 2018. It stated that you did not qualify for advance payments of the premium tax credit (APTC) and cost-sharing reductions because your application states that the primary tax filers in your household are married but not filing taxes jointly.

On November 27, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination as it related to the termination of your financial assistance.

On January 12, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open to January 27, 2018 to allow you time to submit supporting documents.

On January 23, 2018, you submitted a letter of attestation, dated January 23, 2018, and a partial copy of your [REDACTED] submitted to the

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Bronx County Court on January 5, 2018. These documents were made part of the record as "Appellant's Exhibit A." The record closed that day.

## **Findings of Fact**

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

- 1) According to your NYSOH account, you will be filing your 2018 income tax return with a tax filing status of married filing separately. You will claim no dependents on that income tax return.
- 2) You initially testified that you will be filing married filing single in 2018, but then retracted that statement and said that you are unsure of how you will be filing your income tax return in 2018 because you are now divorced and you need to speak to an accountant.
- 3) On January 23, 2018, you submitted a letter of attestation stating that you will be filing your 2018 taxes as head of household single. You further submitted a partial copy of your [REDACTED] that indicated that it was submitted to the Court on [REDACTED]. It did not include a signature page which would indicate if the divorce was granted.
- 4) According to your NYSOH account, you will be claiming your child as a dependent.
- 5) You testified that you pay more than half of the cost to maintain your home and that you do not reside with your spouse.
- 6) You testified that your income is \$44,148.00.
- 7) According to your NYSOH account, and your testimony, you live in [REDACTED], New York.

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

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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 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;
  - 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).

### 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 are not eligible for APTC and cost-sharing reductions.

In the eligibility determination notice issued on November 25, 2017, NYSOH denied APTC to you because you indicated that you were married but did not plan to file a joint federal income tax return.

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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 have not obtained a decree of divorce or of separate maintenance. And, although you testified that you were unsure whether you would file married filing separately in 2018, the application you submitted on November 24, 2017 indicates that you plan on filing your tax return with a tax status of married filing separately in 2018.

Therefore, NYSOH was correct when it found you to be ineligible for APTC due to your tax filing status as stated in your application.

Cost-sharing reductions are available only to those who meet the requirements for APTC. Since you did not qualify for APTC, NYSOH correctly found that you were not eligible for cost-sharing reductions.

Since NYSOH correctly determined that you are not eligible for APTC or cost-sharing reductions, based on the information provided in your application, the November 25, 2017 eligibility determination notice is AFFIRMED.

Finally, there is an exception, as noted above, that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for APTC.

You credibly testified, and provided documentation, during the hearing that: (1) you expect to claim your one child as a dependent and that child’s primary home is with you, (2) you will pay more than one-half of the cost of keeping up your home for 2018, and (3) your spouse is not been a member of the household and you expect that to remain the case for 2018. Therefore, the record supports a finding that you are a head of household with a qualifying dependent and so qualify to be treated as “not married”.

## **Decision**

The November 25, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** February 6, 2018

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

You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

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 ineligible for an APTC because you are married but not filing your 2017 federal income tax return jointly.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

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

## **Summary**

The November 25, 2017 eligibility determination notice is AFFIRMED.

You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

You remain ineligible for an APTC because you are married but not filing your 2017 federal income tax return jointly.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

[REDACTED]

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).

## **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。我们可以为您免费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، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### **বাংলা (Bengali)**

এটি এক গুরুত্বপূর্ণ নথি। এটি বুজতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূলে 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 nkyerɛkyerɛmu a, ye sre wo, frɛ 1-855-355-5777. yɛbɛtumi ama wo obi a ɔkyerɛ kasa a woka no ase ama wo kwa a wontua hwɛe.

## (Urdu) اردو

یہ ایک ایم 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 فرائیم 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)

דא איז א וויכטיגער דאקטומענט. אויב איר דארפֿט הילפֿ עס צו פֿאָרטשטיין, בִּינְעַ רֻופֿט 1-855-355-5777. מִיר קָעָנָען אַיר געבן אַדאלמעטשרער פרײַ פֿון אָפֿצָאַל אַין די שְׁפָרָאַךְ וְאַיס אַיר רַעַדְטַ.