



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: AP000000024870

[REDACTED]

On January 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 16, 2017 eligibility determination and plan enrollment notices.

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

Decision Date: February 6, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024870

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## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly redetermine your and your spouse's eligibility on November 15, 2017, and find that you and your spouse were not eligible to receive advance payment of the premium tax credit in the month of December 2017?

Did NY State of Health properly determine that your and your spouse's advance payment of the premium tax would next be applied effective January 1, 2018?

## Procedural History

On October 12, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on the information contained in your October 11, 2017 application, stating that, if you and your spouse qualified for a special enrollment period, you and your spouse were eligible to share in advance payment of the premium tax (APTC) of up to \$369.00 per month for a limited time, effective November 1, 2017. The notice directed you and your spouse to provide proof of income before January 9, 2018, to confirm your shared eligibility.

Also on October 12, 2017, a plan enrollment notice was issued confirming that you and your spouse were enrolled in a platinum-level qualified health plan (QHP) with a monthly premium of \$1,425.24 after your APTC of \$369.00 was applied, effective November 1, 2017.



partnership self-employment income of \$67,423.00 calculated by your total gross partnership income of \$72,155.00 less a self-employment tax deduction of \$4,732.00 ( [REDACTED] ). You testified that you and your spouse's income should be the same in 2017.

- 4) According to the Notes Tab in your NYSOH account, income was added to your spouse's reported \$33,700.00 in the amount of \$62,980.00 on November 15, 2017. This income consists of \$66,972.00 in partnership income, \$64.00 in royalties, \$614.00 in dividends, and \$62.00 in interest, less a self-employment tax deduction of \$4,732.00.
- 5) On November 15, 2017, NYSOH redetermined your and your spouse's eligibility based on your 2016 income tax return and increased your income from \$67,400.00 to \$130,380.00. As a result, you and your spouse were found ineligible for financial assistance because your income was "over \$80,640.00."
- 6) You updated your and your spouse's account on November 22, 2017, and were found eligible for APTC, effective January 1, 2018. This resulted in a gap in financial assistance for the month of December 2017.
- 7) According to the Eligibility History Tab in your NYSOH account, the Eligibility and Enrollment Tabs in your NYSOH account, and your testimony, your and your spouse's APTC was applied to November 2017, but not December 2017.
- 8) According to your NYSOH account and your testimony, you and your spouse will not be taking any deductions on your 2017 tax return other than your and your spouse's self-employment tax deduction as reported.
- 9) According to your NYSOH account and your testimony, you and your spouse live in [REDACTED], New York.
- 10) You testified that you want your APTC to be applied to December 2017, because your and your spouse's loss in APTC for that month was the result of an error by NYSOH.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the projected eligibility determination for the following year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)).

NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

### Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC (APTC) for 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 benefit year (45 CFR § 155.330(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

Initially, it is noted that you and your spouse were found eligible to receive up to \$369.00 per month in APTC as of November 1, 2017, based on your October 11, 2017 updated application. The November 1, 2017 start date and amount of APTC are not in dispute.

It is further noted, that although the November 16, 2017 plan enrollment notice stated that you and your spouse's enrollment in a full cost QHP began on November 1, 2017, you credibly testified and the record reflects that APTC was applied in the month of November 2017, resulting in a gap of APTC solely for the month of December 2017.

Thus, the issue is refined to whether NYSOH properly redetermined that you and your spouse were no longer eligible for APTC as of December 1, 2017, as stated in the November 16, 2017 eligibility determination notice.

On October 12, 2017, NYSOH issued an eligibility determination notice based on the information contained in the October 11, 2017 application, stating that you and your spouse were conditionally eligible to receive APTC in the amount of \$369.00 per month, effective November 1, 2017, pending proof of income.

The record reflects that, on November 15, 2017, you submitted proof of income, which was validated by NYSOH that same day. However, on November 15, 2017, NYSOH redetermined your and your spouse's eligibility based on the amount it recalculated your annual income to be, which amount was an increase of your attested income of \$67,400.00 to \$130,380.00. It appears that NYSOH computed your household income by doubling it, which increase in income put you and your spouse at 646.73% of the applicable FPL of \$20,160.00 for a three-person household. This also resulted in you and your spouse being redetermined ineligible for APTC as of December 1, 2017, as stated in the November 16, 2017 eligibility redetermination notice.

However, upon review of your income documentation that you submitted on November 15, 2017, your and your spouse's income totals \$67,423.00 for 2016. You credibly testified that your and your spouse's income should be the same or close to the same in 2017.

Based on the income amount computed by NYSOH, an additional \$62,980.00 was added to your spouse's reported \$33,700.00 income. It is unclear why NYSOH did this, and the record is devoid of any explanation. It is reasonable to conclude, however, that NYSOH erroneously and nearly doubled the income in your tax return by applying the entirety of your and your spouse's 2016 self-employment income to your spouse's already reported fifty percent of your and your spouse's self-employment partnership income.

Nonetheless, on November 22, 2017, you and your spouse were redetermined to be fully eligible to share in APTC in an amount of up to \$482.00 per month, effective January 1, 2018, based on an annual household income of \$67,423.00 for a three-person household, as stated in the November 23, 2017 eligibility redetermination notice.

This correction rectified the amount of APTC to which you and your spouse were entitled, but did not resolve the gap in your and your spouse's eligibility for APTC for the month of December 2017.

Since NYSOH incorrectly increased your and your spouse's income, which resulted in you and your spouse being redetermined ineligible for financial assistance, it is reasonable to conclude that NYSOH erred in terminating your APTC effective December 1, 2017. Therefore, the November 16, 2017 eligibility determination and plan enrollment notices were based on incorrectly calculated income by NYSOH and you and your spouse were improperly redetermined ineligible for APTC for the month of December 2017.

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 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 and your spouse file your 2017 federal tax return.

## **Decision**

The November 16, 2017 eligibility determination and plan enrollment notices were based on incorrectly calculated income by NYSOH.

Although you and your spouse were improperly redetermined ineligible for APTC for the month of December 2017, and because of the passage of time, your APTC for the month of December 2017, can be reconciled when you and your spouse file your federal income tax return for 2017.

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



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

This decision does not change your eligibility for APTC.

The amount of APTC to which you and your spouse should have been entitled to receive in December 2017, can be reconciled when you and your spouse 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 U.S. Department of Health and Human Services 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, APTCs, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. 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 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

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).

## **Summary**

The November 16, 2017 eligibility determination and enrollment confirmation notices were based on incorrectly calculated income by NYSOH.

Although you and your spouse were improperly redetermined ineligible for APTC for the month of December 2017, and because of the passage of time, your APTC for the month of December 2017, can be reconciled when you and your spouse file your federal income tax return for 2017.

This decision does not change your eligibility for APTC.

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

## **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 مجانًا.

### বাংলা (Bengali)

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).

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।

### **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 bεtumi 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.

### **אַײַדיש (Yiddish)**

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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).