



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

## Notice of Decision

Decision Date: April 3, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025082

[REDACTED]

[REDACTED]

[REDACTED]

On February 6, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's November 30, 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 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: April 3, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025082

[REDACTED]

[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 you were eligible to purchase a qualified health plan at full cost through NYSOH and ineligible for advance payments of the premium tax credit (APTC) or cost-sharing reductions, effective January 1, 2018?

## Procedural History

On November 29, 2017, you updated your household's application for financial assistance with health insurance.

On November 30, 2017, NYSOH issued an eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018. The notice stated that you were not eligible to receive APTC or cost-sharing reductions because APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH could not ascertain if a federal tax return was filed for that year.

Also on November 30, 2017, you spoke to NYSOH's Account Review Unit and appealed this determination insofar as you were found ineligible for APTC.

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).

On December 14, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for APTC and cost-sharing reductions for a limited time, effective January 1, 2018. This was because you had been granted Aid to Continue until a decision was made on your appeal.

On December 15, 2017, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2018 and that your APTC of \$462.00 per month would be applied to your monthly premium as of January 1, 2018.

On February 6, 2018, you had a hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, [REDACTED] acted as your Authorized Representative and assisted you with your testimony. The record was developed during the hearing and closed at the end of the hearing.

The record was developed during the hearing and left open until March 8, 2018 to allow you the opportunity to submit supporting documentation. On February 22, 2018, the Appeals Unit received via fax your 2016 Amended Federal Tax return and your 2015 and 2016 IRS Tax Transcripts. These documents were collectively marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

## **Findings of Fact**

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

- 1) You testified that you are seeking to be found eligible for APTC for 2018.
- 2) Your NYSOH account reflects that you received APTC in 2014, 2015, 2016, and 2017.
- 3) You testified that you have filed a tax return for 2015 and 2016, and that there are not any years that you were required to file a tax return that you did not file a return.
- 4) You testified that you filed your 2015 tax return in October 2016 and that you had a valid extension for filing this return.
- 5) Your authorized representative testified that he is your accountant. He explained that when your 2016 tax return was originally filed in June 2016, he failed to reconcile your APTC and that in November 2017 he filed an amended tax return for 2016 wherein he reconciled your APTC and filed form 8962.

- 6) Your NYSOH account reflects that you expect to file your 2018 tax return with a tax filing status of single and that you will not claim any dependents on that tax return.
- 7) You submitted your IRS Tax Transcript for your 2015 tax return which indicates that your 2015 tax return was received by the IRS on October 14, 2016. This document includes information from your 8962 regarding your monthly APTC for 2015, as well as a premium tax credit amount of \$900.00.
- 8) You submitted your IRS Tax Transcript for your 2016 tax return which indicates that your 2016 tax return was received by the IRS on June 28, 2017. The transcript does not contain an indication that form 8962 was completed at the time of this filing, nor does this contain any information regarding your amended tax return.
- 9) You submitted your 2016 Amended Federal Tax Return which includes your 8962 and indicates reconciliation of your APTC as per line 69. This return indicates that it was signed by your accountant on November 30, 2017.

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

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)).

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)).

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).

People who use 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).

NYSOH may not determine a tax filer eligible for APTC if APTC was paid on the tax filer's behalf in a previous year, and a tax return was not filed for that previous year (45 CFR §155.305(f)(4)).

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 in order 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)).

### 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 qualified health plan at full cost through NYSOH and not eligible for APTC or cost-sharing reductions, effective January 1, 2018.

On November 29, 2017, NYSOH received your application for financial assistance for the 2018 coverage year. On November 30, 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 your 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 29, 2017 application, NYSOH had not received information from the IRS that your tax return for 2015 or 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 tax year.

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 submitted your 2015 IRS Tax Transcript which shows that on October 14, 2016 you filed your 2015 tax return and that as part of this tax return you filed form 8962 and reconciled your APTC.

You also submitted your 2016 IRS Tax Transcript. This indicates that your 2016 tax return was initially filed on June 28, 2017. However, the transcript as well as your accountant's testimony, indicate that at the time of your initial filing, you had not reconciled your 2016 APTC, which is reconciled on form 8962.

Your accountant testified that your 2016 amended tax return with form 8962 was ultimately filed in November 2017. You submitted a copy of your 2016 amended tax return which includes your completed 8962 and indicates that it was signed by your accountant on November 30, 2017.

Applicants who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income as stated on their NYSOH application, with their actual income as stated on their federal income tax return.

As you received APTC in 2016 and your 2016 tax return reconciling your APTC had not been received by the IRS at the time of your November 29, 2017 application, NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost through NYSOH, and ineligible to receive APTC or cost-sharing reductions.

Therefore, the November 30, 2017 eligibility determination notice is **AFFIRMED**.

However, as your accountant testified that you have filed an amended tax return for 2016 wherein you reconciled your APTC for 2016, the IRS may have since updated its electronic data sources. Therefore, your case is **RETURNED** to NYSOH to update your account to reflect that your 2015 APTC was reconciled with the IRS on October 14, 2016 and to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2016 tax return reconciling your APTC, and to determine if you are now eligible for financial assistance with health insurance.

## **Decision**

The November 30, 2017 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to update your account to reflect that your 2015 APTC was reconciled with the IRS on October 14, 2016 and to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2016 tax return reconciling your APTC, 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).

**Effective Date of this Decision: April 3, 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 a tax return for 2016 reconciling your APTC, and if so, to redetermine your eligibility for financial assistance with health insurance.

## **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

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).



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 30, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to update your account to reflect that your 2015 APTC was reconciled with the IRS on October 14, 2016 and to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2016 tax return reconciling your APTC, and to determine if you are no eligible for financial assistance with health insurance.

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 a tax return for 2016 reconciling your APTC, and if so, to redetermine your eligibility for financial assistance with health insurance.

## **Legal Authority**

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

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

[REDACTED]

[REDACTED]

## **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)**

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).

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।

### **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.

### **Twí (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 okyer& kasa a woka no ase ama wo kwa a wontua hwee.

### **اردو (Urdu)**

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.

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).

**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.