



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

## Amended Notice of Decision

Decision Date: March 06, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025310

***This Decision is amended to solely reflect the applicable income amount for December 2017, as indicated in italics.***

[REDACTED]

Dear [REDACTED],

On February 21, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 16, 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).

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## Amended Decision

Decision Date: March 06, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025310

***This Decision is amended to solely reflect the applicable income amount for December 2017, as indicated in italics.***

[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 eligible to purchase a qualified health plan at full cost through NYSOH and ineligible for advanced payments of the premium tax credit and cost-sharing reductions, effective December 1, 2017?

### Procedural History

According to your NY State of Health (NYSOH) account, in January 2017, you were determined eligible to receive up to \$296.00 per month in advanced payments of the premium tax credit (APTC) and eligible for cost-sharing reductions. You were enrolled in a silver-level qualified health plan (QHP), effective January 1, 2017, with the maximum amount of APTC applied monthly as of January 1, 2017.

On October 24, 2017, NYSOH issued a renewal notice stating that it was time for you to renew your health insurance coverage through NYSOH. This notice further stated that NYSOH was unable to make a decision about whether you would qualify for financial help paying for your health insurance coverage and directed you to update your NYSOH account between November 16, 2017 and December 15, 2017 in order for NYSOH to make the appropriate decision.

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 November 15, 2017, NYSOH received your updated application for financial assistance with health insurance.

On November 16, 2017, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost through NYSOH, effective December 1, 2017, and that you no longer qualify for APTC with cost-sharing reductions as of November 30, 2017. This notice further stated that you were not eligible for APTC for one of the following reasons: you told NYSOH that you do not plan on filing a federal tax return, or you are married and told NYSOH that you will file taxes separately from your spouse, or you received APTC in prior years and NYSOH cannot tell if a federal tax return was filed for that year.

Also on November 16, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a QHP with no APTC applied to the premium or cost-sharing reductions, effective December 1, 2017.

On December 4, 2017, NYSOH received your updated application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible for up to \$218.00 per month in APTC, effective January 1, 2018.

Also on December 4, 2017, you spoke to the NYSOH's Accounts Review Unit and appealed the preliminary eligibility determination insofar as you were not eligible for APTC for the month of December 2017.

On December 5, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for up to \$218.00 per month in APTC, effective January 1, 2018.

Also on December 5, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a QHP with the application of your APTC, both effective January 1, 2018.

On February 21, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and the record was closed at the end of the hearing.

## **Findings of Fact**

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

- 1) According to your NYSOH account, you were enrolled in a QHP with \$296.00 APTC applied to your monthly premium, effective January 1, 2017.

- 2) According to your NYSOH account, NYSOH issued a renewal notice stating that you needed to update your account between November 16, 2017 and December 15, 2017 so NYSOH could determine if you would be eligible for financial assistance for the 2018 health insurance year.
- 3) You testified that when you updated your application on November 15, 2017, you thought that you were updating your application for the 2018 health insurance year. *Your income listed in that application was \$30,648.00.*
- 4) According to your NYSOH account, APTC was paid on your behalf in 2016.
- 5) After updating your NYSOH account on November 15, 2017, you were found no longer eligible for APTC for the month of December 2017. The notice that was issued on November 16, 2017 stated that this was because APTC had been paid to your health insurance company to reduce your premium costs in a prior year and NYSOH was unable to tell if a federal tax return was filed for that year.
- 6) You testified that you filed your 2016 federal tax return late due to personal circumstances but that, when you did file it, your APTC was reconciled on that return.
- 7) On December 4, 2017, you uploaded a signed copy of your 2016 federal tax return to your NYSOH account, which shows a completed Form 8962 attached to the return (see Document # [REDACTED]).
- 8) The signed copy of your 2016 federal tax return is dated November 9, 2017 (see Document # [REDACTED]).
- 9) According to your NYSOH account, you updated your NYSOH account on December 4, 2017. After this update, you were found eligible for up to \$218.00 per month in APTC, effective January 1, 2018.
- 10) You testified that you would like your APTC for the month of December 2017 to be applied to your health insurance premium, along with your cost-sharing reductions.

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

Advance payments of the premium tax credit (APTC) are generally 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 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 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)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

*minus*

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

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 2016 FPL, which is \$11,880.00 for a one-person household (81 Federal Register 4036.).

For annual household income in the range of at least 200% but less than 250% of the 2016 FPL, the expected contribution for 2017 is between 6.43% and 8.21% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2016-24).

### 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

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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 information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that 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 and projected eligibility 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 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)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (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 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 that 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 advance premium tax credit 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).

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)).

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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)).

## 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 with cost-sharing reductions, effective December 1, 2017.

The record indicates that you were found eligible for \$296.00 per month in APTC and cost-sharing reductions if you enrolled into a silver-level QHP, both effective January 1, 2017. You were enrolled in a silver-level QHP, effective January 1, 2017, with the maximum amount of APTC applied monthly as of January 1, 2017.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. On October 24, 2017, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you would qualify for financial help with paying for your health coverage. You were asked to update the information in your account between November 16, 2017 and December 15, 2017 or the financial help you were receiving might end.

The record indicates that you submitted an updated application on November 15, 2017, *one day before November 16, 2017*. You testified that you thought that, when you submitted this application, you were applying for financial assistance for the upcoming year. However, November 15, 2017 was before the timeframe listed in the October 24, 2017 renewal notice. As a result, the system did not recognize that you were attempted to update for the upcoming coverage year in 2018.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month.

Since you updated your application on November 15, 2017, NYSOH must make the redetermination that results from this application effective the first day of the following month. In your case, that is on December 1, 2017. Subsequently, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective December 1, 2017, and that you no longer qualified for APTC with cost-sharing reductions as of November 30, 2017.

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Based on the November 15, 2017 application, NYSOH determined that you were not eligible for financial assistance because, based on federal and state data sources, it appeared that you had not filed a prior year's tax return and, as a result, did not reconcile your APTC with the IRS that you received in that year.

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. Therefore, if APTC was paid on that tax filer's behalf in a previous year and NYSOH is unable to determine whether the APTC was reconciled on their federal tax return, NYSOH may determine a tax filer ineligible for APTC.

You testified that you did file your 2016 federal tax return through the assistance of your accountant. You further testified that you filed your 2016 federal tax return late due to personal circumstances. However, you testified that, when you did file your 2016 federal tax return, you submitted this tax return with Form 8962. On December 4, 2017, you uploaded a signed copy of your 2016 federal tax return onto your NYSOH account; which has a completed Form 8962 attached. Your 2016 federal tax return is signed and dated November 9, 2017. Further, an updated application was submitted to NYSOH on December 4, 2017, and you were found eligible for APTC, effective January 1, 2018.

Based on your credible testimony, along with the record as developed at the time of the hearing, it is reasonable to conclude that, at the time of your November 15, 2017 application, you had filed your 2016 federal tax return with the requisite information, including the reconciliation of your APTC, and the data sources that NYSOH had relied upon to make its determination were incorrect.

Since the November 16, 2017 eligibility determination notice is not supported by the record, it must be RESCINDED.

Since the November 16, 2017 eligibility determination is no longer support by the record, your case is RETURNED to NYSOH to redetermine your eligibility for the month of December 2017, as of November 15, 2017, based on a one-person household with an expected annual income of \$30,648.00, for an individual residing in New York County, and to notify you accordingly.

This Decision has no effect on your eligibility for financial assistance or your health insurance coverage, which became effective January 1, 2018.

PLEASE NOTE: Any APTC you receive for 2017 must be reconciled on your 2017 federal income tax return. Therefore, filing your income tax return before the resolution of this appeal is implemented could have consequences on any income tax liability or refund.

## **Decision, as amended**

The November 16, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for the month of December 2017, as of November 15, 2017, based on a one-person household with an expected annual income of \$30,648.00, for an individual residing in New York County, and to notify you accordingly.

NYSOH is directed to complete and issue an amended Form 1095A to reflect the corrections.

This Decision has no effect on your eligibility for financial assistance or your health insurance coverage, which became effective January 1, 2018.

**Effective Date of this Decision:** March 06, 2018

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

This Decision does not affect your current eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance for the month of December 2017. NYSOH will notify you once this has been completed, and will send you an amended Form 1095A to reflect this correction.

## **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 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).

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 16, 2017 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for the month of December 2017, as of November 15, 2017, based on a one-person household with an expected annual income of **\$30,648.00**, for an individual residing in New York County, and to notify you accordingly.

NYSOH is directed to complete and issue an amended Form 1095A to reflect the corrections.

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 Decision has no effect on your eligibility for financial assistance or your health insurance coverage, which became effective January 1, 2018.

This Decision does not affect your current eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance for the month of December 2017. NYSOH will notify you once this has been completed, and will send you an amended Form 1095A to reflect this correction.

PLEASE NOTE: Any APTC you receive for 2017 must be reconciled on your 2017 federal income tax return. Therefore, filing your income tax return before the resolution of this appeal is implemented could have consequences on any income tax liability or refund.

## **Legal Authority**

We are issuing this determination 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।

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 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.

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).