



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

## Notice of Decision

Decision Date: March 13, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025392

[REDACTED]

Dear [REDACTED],

On February 13, 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).

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: March 13, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025392



## 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 (QHP) at full cost and ineligible for advance payments of premium tax credit (APTC), effective January 1, 2018?

## Procedural History

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

On December 5, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal because you were determined ineligible for APTC.

On February 13, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was left open until February 27, 2018, to allow you to submit a tax return transcript of your 2016 federal income tax return.

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 February 28, 2018, you faxed eight-pages of documentation to NYSOH's Appeals Unit. That documentation was made part of the record as "Appellant Exhibit A." The record is now complete and closed.

## **Findings of Fact**

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

- 1) According to your NYSOH account and testimony, you are applying for health insurance for yourself.
- 2) According to your NYSOH account, your marital status is widowed.
- 3) According to your NYSOH account, you expect to file a 2018 federal income tax return with the tax filing status of single.
- 4) According to your NYSOH account, you attested that you expected your 2018 annual household income to be \$27,396.00.
- 5) According to your NYSOH account and testimony, you were enrolled in a QHP and received APTC in 2016.
- 6) You testified that you filed your 2016 federal income tax return in April 2017.
- 7) You testified that you did not attach a 2016 Form 8962 when filing your tax return in April 2017, because the 2016 Form 1095-A issued by NYSOH was incorrect.
- 8) You testified that, in August 2017, you contacted NYSOH and requested an amended 2016 Form 1095-A; however, an amended form was never issued.
- 9) You testified that the Internal Revenue Service (IRS) issued you a notice stating that you had to file a Form 8962 to reconcile your APTC on your 2016 federal income tax return.
- 10) You testified that in December 2017 you faxed the 2016 Form 8962 to the IRS.
- 11) On February 28, 2018, you submitted your 2016 Form 8962 to NYSOH's Appeals Unit. Box 29 of that form states that the excess advance premium tax credit repayment was \$2,196.00 (Appellant Exhibit A, [REDACTED]).

12) On February 28, 2018, you submitted an IRS Account Transcript of your 2016 federal income tax return. The transcript indicates that the IRS assessed you an additional tax of \$2,196.00 as of March 12, 2018 (Appellant Exhibit A, [REDACTED]).

13) According to your NYSOH account, you reside in [REDACTED], NY.

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 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)).

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 were made on behalf of the tax filer or their spouse, and the tax filer or their spouse did not comply with the requirement to file an income tax return for that year and reconcile the APTC for that period (45 CFR § 155.305(f)(4)).

## 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, effective January 1, 2018.

On November 29, 2017, you submitted an application for financial assistance through NYSOH. On the following day, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a QHP at full cost and ineligible to receive APTC. The notice stated that this was because APTC was paid to your health insurance company in a prior year and NYSOH was unable to ascertain if a federal tax return was filed for that year.

Individuals who apply APTC to their health insurance premiums must file a federal income tax return and reconcile their reported expected household income, as stated in the NYSOH application, with their actual household income on their federal income tax return. The federal regulations provide that 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 the APTC was not reconciled on their federal income tax return.

On November 29, 2017, NYSOH was unable to confirm through federal and state data sources that you filed a federal income tax return and reconciled the APTC that were received during 2016.

You testified that you received APTC in 2016 and filed a 2016 federal income tax return in April 2017; however, you did not attach Form 8962 because the Form 1095-A issued by NYSOH was incorrect. Further, you contacted NYSOH and requested an amended 2016 Form 1095-A, but an amended form was never issued.

You testified that the IRS issued you a notice stating that you had to file a Form 8962 to reconcile the APTC that had been received. Based on the receipt of that notice, you testified that in December 2017, you faxed your 2016 Form 8962 to the IRS.

The record reflects that at the time of your November 29, 2017 application, the APTC received during 2016 had not been reconciled on your 2016 federal income tax return. Therefore, the November 30, 2017 eligibility determination notice is AFFIRMED.

On February 28, 2018, you submitted your 2016 Form 8962 to NYSOH's Appeals Unit. Box 29 of that form states that the excess advance premium tax credit repayment was \$2,196.00. Further, you submitted an IRS Account Transcript of

your 2016 federal income tax return stating that the IRS assessed you an additional tax of \$2,196.00 as of March 12, 2018 (Appellant Exhibit A [REDACTED]).

The documentation submitted, in conjunction with your testimony, permits the inference that you filed the 2016 Form 8962 with the IRS and reconciled the APTC received in 2016.

Since the record contains sufficient evidence that you reconciled the APTC received in 2016 on your federal income tax return, your case is RETURNED to NYSOH to calculate your financial assistance based on a one-person household with an expected household income of \$27,396.00, for an individual residing in Queens County.

## **Decision**

The November 30, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to calculate your financial assistance based on a one-person household with an expected household income of \$27,396.00, for an individual residing in Queens County.

**Effective Date of this Decision:** March 13, 2018

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

As of November 29, 2017, NYSOH properly determined that you were ineligible for APTC because you had not reconciled the APTC received in 2016 on your federal income tax return.

Your case has been returned to NYSOH to determine your eligibility for financial assistance based on the parameters above.

## **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.

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).

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 30, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to calculate your financial assistance based on a one-person household with an expected household income of \$27,396.00, for an individual residing in Queens County.

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).



As of November 29, 2017, NYSOH properly determined that you were ineligible for APTC because you had not reconciled the APTC received in 2016 on your federal income tax return.

Your case has been returned to NYSOH to determine your eligibility for financial assistance based on the parameters above.

### **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، 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.

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