



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

## Notice of Decision

Decision Date: March 07, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025563

[REDACTED]

Dear [REDACTED],

On February 14, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 11, 2017 eligibility determination and plan enrollment notices, and December 9, 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 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 07, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025563

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that your eligibility for advance payments of the premium tax credit ended effective November 30, 2017?

Did NYSOH properly determined that you were enrolled in a qualified health plan at full cost, effective September 1, 2017?

Did NYSOH properly determine that your eligibility for advance payments of the premium tax credit was effective January 1, 2018?

## Procedural History

On August 16, 2017, you updated your application for health insurance, and updated your mailing address.

On August 17, 2017, NYSOH issued three notices. The first was an eligibility determination notice stating that you were eligible to receive up to \$287.00 per month in advance premium tax credit (APTC) and for cost-sharing reductions. This eligibility was effective September 1, 2017.

The second was a plan enrollment notice confirming your enrollment in a qualified monthly health plan with a monthly premium of \$167.52 after APTC of \$287.00 was applied. This enrollment was effective September 1, 2017.

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The third was a notice of change in address, which notice stated that you had changed your mailing address to: [REDACTED]. The notice further stated that all of your notices concerning eligibility and coverage with NYSOH would be sent to this address, and if this is not correct to contact NYSOH immediately.

On October 28, 2017, NYSOH issued a renewal notice stating that it was time to renew your health insurance for the 2018 coverage year.

On November 9, 2017, the October 28, 2017 notice was returned to NYSOH as undelivered because the mailing address was marked as invalid.

As a result of the returned mail, on November 10, 2017, NYSOH redetermined your eligibility for health insurance.

On November 11, 2017, NYSOH issued an eligibility determination notice stating that you were no longer eligible for APTC or cost-sharing reductions, effective November 30, 2017, because mail sent to you by NYSOH to the mailing address you provided in your account was returned as undeliverable by the U.S. Postal Service. The notice also stated that you were newly eligible to purchase a qualified health plan at full cost, effective December 1, 2017.

Also on November 11, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in a qualified health plan with a full premium payment of \$454.52 per month, without APTC or cost-sharing reductions. This enrollment was effective September 1, 2017.

On December 8, 2017, you updated your application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$375.00 in advance premium tax credit and cost sharing reductions, effective January 1, 2018.

Also on December 8, 2017, you contacted NYSOH's Account Review Unit and appealed that preliminary eligibility determination notice insofar as you were not eligible for APTC and cost-sharing reductions in December 2017.

On December 9, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive \$375.00 per month in APTC and cost sharing reductions. This eligibility was effective January 1, 2018.

Also on December 9, 2017, NYSOH issued a plan enrollment notice stating that you were enrolled in a qualified health plan with a monthly premium of \$108.42 after APTC of \$375.00 was applied. This enrollment was effective January 1, 2018.

On February 14, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and 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 and your testimony, on August 16, 2017, you elected to receive your communications from NYSOH, including notices regarding your eligibility and enrollment in health insurance, by regular mail at [REDACTED].
- 2) You testified that you stopped using your [REDACTED] on [REDACTED] at the end of October 2017, and that you moved at the beginning of November 2017, on or around [REDACTED].
- 3) You testified that you did not update your NYSOH account to reflect the change in address at that time.
- 4) On October 28, 2017, NYSOH mailed a notice to [REDACTED].
- 5) On November 9, 2017, the October 28, 2017 notice was returned to NYSOH as undeliverable by the U.S. Postal Service.
- 6) According to your NYSOH account, your eligibility was redetermined on November 10, 2017, because mail delivered to [REDACTED] had been returned. As a result of this redetermination, you were no longer eligible for APTC or cost-sharing reductions as of November 30, 2017.
- 7) You testified that you realized that you were no longer receiving APTC or cost-sharing reductions in December 2017, when your qualified health plan withdrew the full premium amount of \$454.52 from your bank account for payment that month, instead of the amount \$167.52 after APTC was applied, as in the past.
- 8) You testified that, once you realized you were billed the full premium amount, you contacted NYSOH by telephone. You testified that, during that telephone call, you discovered that your premium amount increased because mail sent to you at [REDACTED] was returned as undeliverable. You then updated your address to [REDACTED] and changed your communication preferences with NYSOH from regular mail to electronic alerts.

- 9) According to your NYSOH account, you updated your address and communication preferences with NYSOH on December 8, 2017.
- 10) You testified that you want to receive APTC for the month of December 2017.

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

## **Applicable Law and Regulations**

### Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).

### Advance Payments of Premium Tax Credit

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), 26 CFR § 1.36B-2, 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

### 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)).

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## Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your eligibility for APTC ended effective November 30, 2017.

The record shows that, on August 16, 2017, you elected to receive your communications with NYSOH, including notices about your eligibility and coverage, by regular mail to [REDACTED]. You testified that you stopped using this [REDACTED] address at the end of October 2017, and that you moved in the beginning of November 2017, but that you did not update your contact information in your NYSOH account at that time.

On October 28, 2017, NYSOH mailed a notice to you at [REDACTED], [REDACTED]. On November 9, 2017, that notice was returned to NYSOH by the U.S. Postal Service as undeliverable. As a result, on November 10, 2017, NYSOH redetermined your eligibility because the system assumed you no longer met the state residency requirement for eligibility for APTC or cost-sharing reductions.

On November 11, 2017, NYSOH issued an eligibility determination notice stating that your eligibility for APTC or cost-sharing reductions ended November 30, 2017, and that you were newly eligible for a qualified health plan at full cost beginning December 1, 2017. That notice stated this was because NYSOH sent notices to the mailing address provided in your account, but the notices were returned. That same day, NYSOH issued a notice of plan enrollment stating that you would remain in the same qualified health plan, but were responsible for the full premium amount. The enrollment start date is listed as September 1, 2017.

The credible evidence in the record shows that you updated your mailing address in your NYSOH account and elected to receive electronic alerts on December 8, 2017.

NYSOH requires that an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change. The record shows that you updated

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your mailing address and communication preferences with NYSOH on December 8, 2017, more than 30 days after you stopped using your [REDACTED] address and after you moved. It is reasonable to conclude that NYSOH reasonably relied upon the address provided in your NYOSH account when issuing its notices. It is also reasonable to conclude that in using the [REDACTED] address in your account to send notices to you, no error or inaction can be attributed to NYSOH, its agents or instrumentalities. Therefore, NYSOH satisfied its obligation to notify you using your chosen method of contact at the address you provided, which ultimately lead to the termination of your APTC and cost-sharing reductions on November 30, 2017.

Therefore, the November 11, 2017 eligibility determination notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were enrolled in a qualified health plan at full cost, effective September 1, 2017.

As discussed above, on November 10, 2017, NYSOH redetermined your eligibility for health insurance. On November 11, 2017, NYSOH issued a plan enrollment notice stating that your enrollment in a qualified health plan at full cost was effective September 1, 2017.

When an application is redetermined for eligibility 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. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Since NYSOH redetermined your application for health insurance on November 10, 2017, your eligibility and enrollment in a qualified health at full cost would properly take place on the first day of the first month following November 2017; that is, December 1, 2017, not September 1, 2017.

Therefore, November 11, 2017 plan enrollment notice is MODIFIED to state the correct enrollment start date of December 1, 2017, not September 1, 2017.

The third issue under review is whether NYSOH properly determined that your re-enrollment in a qualified health plan with the application of APTC and cost-sharing reductions was effective January 1, 2018.

The record indicates that you updated your application for health insurance on December 8, 2017. On December 9, 2017, NYSOH issued an enrollment confirmation notice stating that your enrollment in your qualified health plan was effective January 1, 2018, and that APTC and cost-sharing reductions would be applied to your monthly premium effective January 1, 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. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Since you updated your application for health insurance on December 8, 2017, your eligibility for and enrollment in a qualified health plan with the application of APTC properly took place on the first day of the first month following December 2017; that is, January 1, 2018.

Therefore, NYSOH's December 9, 2017 eligibility determination and plan enrollment notices are **AFFIRMED** because they properly began your enrollment in your qualified health plan, as well as application of your APTC and cost-sharing reductions, on January 1, 2018.

## **Decision**

The November 11, 2017 eligibility determination notice is **AFFIRMED**.

The November 11, 2017 plan enrollment notice is **MODIFIED** to state the correct enrollment start date of December 1, 2017.

The December 9, 2017 eligibility determination notice is **AFFIRMED**.

The December 9, 2017 plan enrollment notice is **AFFIRMED**.

**Effective Date of this Decision:** March 07, 2018

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

NYSOH properly found you ineligible to receive APTC or cost-sharing reductions effective November 30, 2017, on the basis that mail was returned as undeliverable because you did not update your mailing address within 30 days of the change of address.

The effective date of your enrollment in a qualified health plan at full cost is December 1, 2017, not September 1, 2017.

The effective date of your re-enrollment in a qualified health plan with APTC and cost-sharing reductions is January 1, 2018.

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 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

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).

- By mail at:  
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- By fax: 1-855-900-5557

## **Summary**

The November 11, 2017 eligibility determination notice is AFFIRMED.

The November 11, 2017 plan enrollment notice is MODIFIED to state the correct enrollment start date of December 1, 2017.

The December 9, 2017 eligibility determination notice is AFFIRMED.

The December 9, 2017 plan enrollment notice is AFFIRMED.

NYSOH properly found you ineligible to receive APTC or cost-sharing reductions effective November 30, 2017, on the basis that mail was returned as undeliverable because you did not update your mailing address within 30 days of the change of address.

The effective date of your enrollment in a qualified health plan at full cost is December 1, 2017, not September 1, 2017.

The effective date of your re-enrollment in a qualified health plan with APTC and cost-sharing reductions is January 1, 2018.

## **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 1-855-355-5777번으로 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।

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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 nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. yEbEtumi 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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