



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
PO Box 11729  
Albany, NY 12211

### Notice of Decision

Decision Date: February 21, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025606

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

On February 15, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health’s December 12, 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
  - PO 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(b).

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 21, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025606

[REDACTED]  
[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 not eligible for advanced payments of the premium tax credit (APTC), effective January 1, 2018?

## Procedural History

On December 18, 2016, NYSOH issued an eligibility determination notice stating that you were eligible for up to \$332.00 per month in APTC and, if you selected a silver-level health plan, eligible for cost-sharing reductions (CSR), effective January 1, 2017.

Also on December 18, 2016, NYSOH issued an enrollment notice confirming your selection of a qualified health plan (QHP) as of December 17, 2016. The notice stated your coverage under this plan and the application of APTC had begun as of January 1, 2017.

On October 24, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not determine whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2017 or you might lose the financial assistance you were had been receiving.

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On December 11, 2017, NYSOH received an update to your application for financial assistance with health insurance. In response to this application, NYSOH prepared a preliminary eligibility determination stating that you were not eligible for financial assistance.

Also on December 11, 2017, you spoke to NYSOH's Account Review Unit and appealed the preliminary determination insofar as you were found not eligible for APTC.

On December 12, 2017, NYSOH issued an eligibility determination notice stating 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 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.

On January 24, 2018, NYSOH received a tax transcript issued by the Internal Revenue Service (IRS), dated January 24, 2018, reflecting that you filed your 2016 tax return with the IRS on April 15, 2017.

On February 15, 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, APTC was paid on your behalf in 2016.
- 2) You testified, and the documentation you provided reflects, that you filed 2016 tax return timely. You further testified that you do not recall submitting a Form 8962 to the IRS when filing your tax return for 2016.
- 3) You testified you did not file for an extension with the IRS to submit your 2016 tax return since that was not necessary.
- 4) You updated your application with NYSOH on December 11, 2017.
- 5) You provided a copy of your 2016 IRS Tax Transcript to NYSOH on January 24, 2018.
- 6) Your IRS Tax Transcript shows your 2016 return was received by the IRS on April 15, 2017. This transcript also reflects that you did not file a Form

8962 with your 2016 return, reconciling the APTC credited to you during that plan year.

- 7) You testified you have filed your taxes as “single,” and have not claimed any dependents on your tax return for 2016.
- 8) Your application reflects that your annual expected household income for 2018 is \$38,000.00.
- 9) You live in Westchester County, New York.

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

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 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)).

NYSOH may not authorize APTC if APTC was paid on behalf of a tax filer, or the tax filer’s spouse in a previous year, and the tax filer (or spouse) failed to reconcile the APTC received in that year (45 CFR § 155.305(f)(4)).

An applicant is required to attest to their household’s projected annual income for purposes of determining eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). 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 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)).

If income data is unavailable, or if an applicant’s attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the

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inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you and your spouse were eligible to purchase a QHP at full cost through NYSOH and not eligible for APTC, effective January 1, 2018.

On December 11, 2017, NYSOH received your updated application for financial assistance for 2018. On December 12, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018, and ineligible to receive APTC. The notice stated 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.

You testified that you filed 2016 tax return timely. You further testified that you do not recall submitting a Form 8962 to the IRS when filing your tax return for 2016.

At the time of your December 11, 2017 application, NYSOH had not received information from the IRS that your household's tax return for 2016 had been properly filed. 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 year.

Your IRS Tax Transcript shows your 2016 return was received by the IRS on April 15, 2017. However, this transcript also reflects that you did not file a Form 8962 with your 2016 return reconciling the APTC credited to you during that plan year.

Therefore, the documentation you submitted shows that, as of the date of your application, you had, in fact, filed your 2016 tax return, but you had not reconciled the APTC you received, and the data sources that NYSOH had relied on to make its determination were correct.

Since the record reflects that when you submitted your December 11, 2017 application for financial assistance you had properly filed your 2016 tax return by the April 15, 2017 deadline, but had not reconciled the APTC you received during that plan year, the December 12, 2017 eligibility determination notice is supported by the record, and is AFFIRMED.

## **Decision**

The December 7, 2017 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** February 21, 2018

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

You were not eligible for APTC effective January 1, 2018.

Please note, however, that if you have or anticipate filing an amended tax return for 2016 reflecting a reconciliation of your APTC during that plan year through a Form 8962, you are encouraged to submit an additional application to NYSOH so that your eligibility for financial assistance with health insurance can be ascertained going forward.

## **If You Disagree with this Decision (Appeal Rights)**

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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  
PO Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The December 7, 2017 eligibility determination is **AFFIRMED**.

You were not eligible for APTC effective January 1, 2018.

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Please note, however, that if you have or anticipate filing an amended tax return for 2016 reflecting a reconciliation of your APTC during that plan year through a Form 8962, you are encouraged to submit an additional application to NYSOH so that your eligibility for financial assistance with health insurance can be ascertained going forward.

## **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]  
[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 مجانًا.

### **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. ye&btumi 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.

## **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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