



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

## Notice of Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026001



Dear [REDACTED],

On February 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2017 and January 3, 2018 eligibility determination 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 22, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026001



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine you and your spouse were eligible to purchase a qualified health plan at full cost and ineligible for advanced payments of the premium tax credit (APTC), effective January 1, 2018?

## Procedural History

On December 15, 2017, NYSOH issued an eligibility determination, based on your December 14, 2017 updated application, stating you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018. The notice indicated that you and your spouse were not eligible to receive APTC or cost-sharing reductions, because NYSOH was missing information about your taxes. Specifically, the notice stated that you either indicated you would not file a federal tax return, or you were married and would be filing taxes separately from your spouse, or APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH could not determine whether a tax return was filed.

On December 18, 2017, you contacted NYSOH's Account Review Unit and appealed insofar as you and your spouse were no longer eligible to receive APTC.

On January 3, 2018, NYSOH issued an eligibility determination, based on a January 2, 2018 systematic eligibility redetermination, stating you and your

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spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2018. The notice indicated that you and your spouse were not eligible to receive APTC or cost-sharing reductions, because NYSOH was missing information about your taxes. Specifically, the notice stated that you either indicated you would not file a federal tax return, or you were married and would be filing taxes separately from your spouse, or APTC was paid to your health insurance company to reduce your premium costs in a prior year and NYSOH could not determine whether a tax return was filed.

On January 20, 2018, NYSOH issued a notice stating that, effective January 1, 2018, you and your spouse were eligible for APTC for a limited time, because you had been granted Aid to Continue until a decision was made on your appeal. You and your spouse were subsequently reenrolled into a qualified health plan with APTC applied, effective January 1, 2018.

On February 23, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to March 9, 2018 to allow you to submit supporting documentation.

On March 9, 2018, the Appeals Unit received your documentation which was incorporated into the record as Appellant's Exhibit # 1. The record closed thereafter.

## **Findings of Fact**

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

- 1) You testified that you are seeking APTC for you and your spouse for 2018.
- 2) On December 7, 2017 and December 14, 2017, updated applications for financial assistance with health coverage for the 2018 coverage year were submitted on behalf of you and your spouse. All applications indicated that you would file your 2018 tax return with a tax filing status of married filing jointly and you would claim no dependents. You testified that information was accurate.
- 3) The December 14, 2017 application listed your annual expected income for 2018 as \$48,752.04 including your self-employment income, your spouse's employment income, ordinary dividends you would earn of \$1,500.00, and additional income your spouse would earn of \$3,000.00.
- 4) You testified that the income listed in that application for your spouse was correct, but you were unsure of your income for 2018, because it is derived from your [REDACTED] business and its profitability is dependent upon [REDACTED].

- 5) According to your account, following your December 2017 applications, NYSOH determined you and your spouse ineligible for APTC, effective January 1, 2018, because it could not confirm with federal data sources that you had filed your 2016 tax return and reconciled the tax credits received in that year.
- 6) You appealed that determination insofar as you were not eligible for APTC.
- 7) On December 29, 2017, NYSOH received a copy of an "Account Transcript" from the IRS for the tax period ending December 31, 2017. The document contained no information regarding your tax credits.
- 8) According to your account, NYSOH redetermined the eligibility of you and your spouse on January 2, 2018, and again found you ineligible for tax credits purportedly due to missing information about your tax return.
- 9) On January 19, 2018, NYSOH received a copy of your signed 2016 joint tax return with form 8962 prepared and attached.
- 10) You and your spouse were granted aid to continue pending the decision in your appeal and you were both enrolled in a qualified health plan with APTC applied, effective January 1, 2018.
- 11) You testified, and your account confirms, you received APTC in 2014, 2015, 2016, and 2017.
- 12) You testified that you file your joint tax returns online yourself.
- 13) You testified that you filed your joint tax returns for 2014 and 2015 online by the due date. You testified that you were not sure if your tax credits were reconciled on those tax returns.
- 14) You testified that you filed your joint tax return for 2016 late. You testified that you had already submitted a copy of your tax return with form 8962 which was proof that your return had been filed and your tax credits reconciled.
- 15) According to your account, NYSOH was unable to verify with state and federal data sources that your 2016 tax return had been filed and your tax credits had been reconciled for that tax year.
- 16) At the hearing, you were directed to submit IRS transcripts of your tax returns for the tax years 2014, 2015, and 2016.
- 17) On March 9, 2018, the Appeals Unit received copies of IRS "Tax Return Transcripts" for tax years 2014, 2015, and 2016.

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- 18) The transcripts indicate that you filed a federal tax return in 2014, 2015, and 2016 and each transcript contained a form 8962.
- 19) The transcript for the 2016 tax return indicated that it was filed on August 14, 2017, contained a form 8962, and listed adjusted gross income of \$48,559.00.
- 20) Your applications indicate that you reside in Oneida County.

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)).

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

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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 you and your spouse were eligible to purchase a qualified health plan at full cost and not eligible for APTC, effective January 1, 2018.

On December 14, 2017, an updated application for financial assistance with health coverage for the 2018 coverage year was submitted on behalf of you and your spouse. That application listed your annual expected income for 2018 as \$48,752.04. You testified that you were unsure whether the income information listed in that application was accurate, because part of your income was derived from your [REDACTED] business and its profitability is dependent upon [REDACTED]. You further testified that the information in your application indicating that you would file your 2018 tax return with a tax filing status of married filing jointly and you would claim no dependents was accurate.

According to your account, NYSOH determined you and your spouse ineligible for APTC, effective January 1, 2018, because it could not confirm with federal data sources that you had filed your 2016 tax return and reconciled the tax credits received in that year. You appealed that determination insofar as you and your spouse were not eligible for APTC.

Pursuant to the above cited regulations, 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.

You testified, and your account confirms, that you and your spouse received APTC in 2014, 2015, 2016, and 2017. Although you testified that you filed a tax return in each year you received tax credits, except that you have not yet filed a return for 2017, you were unsure whether your tax credits had been reconciled on each tax return. You further testified that while you did file a tax return for 2016, you filed it late. According to your account, at the time you submitted your December 14, 2017 updated application, NYSOH was unable to verify with federal data bases that your 2016 return had been filed and your tax credits had been reconciled.

It is noted that although you had previously submitted an "Account Transcript" from the IRS for the tax period ending December 31, 2017, that document contained no information regarding reconciliation of your tax credits for that year. Additionally, while you submitted a copy of your 2016 joint tax return with form

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8962 prepared and attached, there was no evidence to confirm that either the tax return or the form 8962 had been filed. Thus, the evidence was insufficient to establish that you had filed your 2016 tax return and reconciled your tax credits.

Therefore, at the hearing you were directed to submit the full IRS transcript of your 2016 tax return. Additionally, based on your testimony that you were not sure whether your tax credits were reconciled on your previous tax returns, you were directed to submit tax return transcripts for tax years 2014 and 2015.

On March 9, 2018, the Appeals Unit received copies of IRS "Tax Return Transcripts" for the joint tax returns of you and your spouse for tax years 2014, 2015, and 2016. The transcripts indicated that you filed a federal tax return in 2014 and 2015 and that you filed a form 8962 in each of those years. The transcript for the 2016 tax return indicates that it was filed on August 14, 2017, contains a form 8962, and lists adjusted gross income of \$48,559.00. Based on that evidence, it is concluded that you filed a tax return in each year that you received APTC and you reconciled your tax credits in each of those years.

Therefore, the December 15, 2017 and January 3, 2018 eligibility determination notices stating you and your spouse were ineligible for APTC, because NYSOH was missing tax information is no longer supported by the record and is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine the eligibility of you and your spouse for financial assistance, effective January 1, 2018, based on the information in your December 14, 2017 application, and the record establishing that you filed a tax return and reconciled the tax credits in each year that you received APTC from NYSOH, aside from 2017 which is not yet due.

It is noted that although you testified you are unsure of your income for 2018, the income amount listed in your December 14, 2017 application is substantially similar to your adjusted gross income from your 2016 tax return. Thus, it is concluded that the information in that application is reliable. However, you are advised that the amount of tax credits you are deemed eligible for by NYSOH is based upon your attested anticipated income and, pursuant to the above cited regulations, applicants who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes.

## **Decision**

The December 15, 2017 and January 3, 2018 eligibility determination notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine the eligibility of you and your spouse for financial assistance, effective January 1, 2018, based on the information in your December 14, 2017 application, and the record establishing

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that you filed a tax return and reconciled the tax credits in each year that you received APTC from NYSOH, aside from 2017 which is not yet due.

**Effective Date of this Decision:** March 22, 2018

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

This is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine the eligibility of you and your spouse for financial assistance in accordance with this decision.

You will receive an updated eligibility determination notice from NYSOH.

## **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 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 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 December 15, 2017 and January 3, 2018 eligibility determination notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine the eligibility of you and your spouse for financial assistance, effective January 1, 2018, based on the information in your December 14, 2017 application, and the record establishing that you filed a tax return and reconciled the tax credits in each year that you received APTC from NYSOH, aside from 2017 which is not yet due.

This is not a final determination of the eligibility of you and your spouse.

You will receive an updated eligibility determination notice from NYSOH.

### **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 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. yeb&tumi ama wo obi a okyer& 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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