



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

## Notice of Decision

Decision Date: January 16, 2018

NY State of Health Account [REDACTED]  
Appeal Identification Number: AP000000026833

[REDACTED]

[REDACTED]

On January 16, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 6, 2018 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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STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: January 16, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026833

[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 your enrollment in a qualified health plan and the application of advance payments of the premium tax credit were effective no earlier than February 1, 2018?

## Procedural History

On October 21, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating that it was time to renew your NYSOH coverage for the upcoming insurance year. This notice further stated that if the information in your application was still accurate that NYSOH had re-enrolled you in your current health plan for another year. This notice stating that you were enrolled in a qualified health plan at full cost, effective January 1, 2017.

On November 18, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in a full cost qualified health plan, effective 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 make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your NYSOH account between November 16, 2017 and December 15, 2017, or you might risk losing your health insurance and, if applicable, any financial assistance.

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On November 21, 2017, NYSOH issued a plan disenrollment notice confirming your termination from your qualified health plan, effective December 31, 2017.

No updates were made to your account by December 15, 2017.

On January 5, 2017, NYSOH received your updated application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared finding you eligible to receive up to \$145.00 per month in advanced premium tax credit (ATPC), effective February 1, 2018.

Also on January 5, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your qualified health plan and application of ATPC insofar as both did not begin January 1, 2017.

On January 6, 2018, NYSOH issued an eligibility determination notice, based on the January 5, 2018 application, stating that you were eligible to receive up to \$145.00 in ATPC, effective February 1, 2018.

Also on January 6, 2018, NYSOH issued a plan enrollment notice stating that you were enrolled in a qualified health plan with a monthly premium responsibility of \$276.63, after your ATPC of \$145.00 was applied, effective February 1, 2018.

On January 16, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the telephone hearing. 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, you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you do not recall receiving any electronic alerts regarding any renewal notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility.
- 3) You testified that you did not know that you needed to update your account until you were informed by your health care provider that there was an issue with your insurance.
- 4) According to your NYSOH account, on January 5, 2018, NYSOH received your updated application for health insurance.

- 5) You testified that you are seeking enrollment in your qualified health plan as of January 1, 2018.
- 6) NYSOH uploaded an evidence packet to your NYSOH account (see Document [REDACTED]). Contained within that evidence packet under the heading of "electronic notice requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that "the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices" (*Id.*, pp. 4-5).
- 7) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the October 27, 2017 renewal notice.

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

## **Applicable Law and Regulations**

### 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 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 containing the information 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 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.

## Electronic Notices

If the individual elects to receive communications by electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account or, if the electronic communication cannot be delivered, send a notice by regular mail within three business days (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your enrollment in a qualified health plan and your eligibility for advance premium tax credits were effective February 1, 2018.

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. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 24, 2017, NYSOH issued an annual renewal notice in your case. The notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you qualify for financial help with paying for your health coverage. You were directed to update the information in your account between November 16, 2017 and December 15, 2017, so NYSOH could make an appropriate decision on what your eligibility would be for the upcoming health insurance year. This notice further stated that if you missed the renewal deadline that you were at risk of losing your health insurance coverage and the financial assistance you were receiving, if any.

Because there was no timely response to this notice, your enrollment in a qualified health plan was terminated effective December 31, 2017.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of a renewal notice being available in your account on October 27, 2017. You credibly testified that you do not recall receiving an electronic alert regarding the renewal notice, which would have directed you to update your account because there was not enough information to renew your coverage for the upcoming year. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice and failed, such that the notice was later sent to you by regular mail.

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).

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you needed to update your NYSOH account in order to continue to receive financial assistance and health insurance through NYSOH.

You first renewed your eligibility for financial assistance through NYSOH for 2018 on January 5, 2018. Therefore, we must assume that this is the information that would have been used to redetermine your eligibility for financial assistance had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the January 6, 2018 eligibility determination notice is MODIFIED to state that, effective January 1, 2018, you are eligible to receive up to \$145.00 per month in APTC; and the January 6, 2018 plan enrollment notice is MODIFIED to state that your enrollment in your qualified health plan with the application of your APTC is effective January 1, 2018.

Your case is RETURNED to NYSOH to enroll you in your qualified health plan with the application of your APTC as of January 1, 2018, and to notify you accordingly.

## **Decision**

The January 6, 2018 eligibility determination notice is MODIFIED to state that, effective January 1, 2018, you are eligible to receive up to \$145.00 in APTC per month.

The January 6, 2018 plan enrollment notice is MODIFIED to state that your enrollment in your qualified health plan with the application of your APTC is effective January 1, 2018.

Your case is RETURNED to NYSOH to enroll you into your qualified health plan with the application of your APTC as of January 1, 2018, and to notify you accordingly.

**Effective Date of this Decision:** January 16, 2018

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

NYSOH failed to provide you with proper notice by electronic means, or by regular mail if the electronic means failed, that you needed to update your

NYSOH account in order to continue to receive financial assistance and health insurance through NYSOH.

Your enrollment in your qualified health plan, and your eligibility for APTC should have begun as of January 1, 2018.

Your case is being sent back to NYSOH to effectuate these changes. NYSOH will notify you once these changes have been made.

You will be responsible to pay directly your portion of the January 2018 monthly premium to the qualified health plan.

### **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

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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 January 6, 2018 eligibility determination notice is MODIFIED to state that, effective January 1, 2018, you are eligible to receive up to \$145.00 in APTC per month.

The January 6, 2018 plan enrollment notice is MODIFIED to state that your enrollment in your qualified health plan with the application of your APTC is effective January 1, 2018.

Your case is RETURNED to NYSOH to enroll you into your qualified health plan with the application of your APTC as of January 1, 2018, and to notify you accordingly.

NYSOH failed to provide you with proper notice by electronic means, or by regular mail if the electronic means failed, that you needed to update your NYSOH account in order to continue to receive financial assistance and health insurance through NYSOH.

Your enrollment in your qualified health plan, and your eligibility for APTC should have begun as of January 1, 2018.

Your case is being sent back to NYSOH to effectuate these changes. NYSOH will notify you once these changes have been made.

You will be responsible to pay directly your portion of the January 2018 monthly premium to the qualified health plan.

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## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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**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।

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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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