



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

## Notice of Decision

Decision Date: March 15, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026938

[REDACTED]

Dear [REDACTED],

On March 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 13, 2018 eligibility determination and enrollment confirmation 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.

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: March 15, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026938

[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 your enrollment in a qualified health plan (QHP) and the application of advance payments of the premium tax credit (APTC) to your premium were effective no earlier than March 1, 2018?

## Procedural History

On November 7, 2017, you updated your application for financial assistance with health insurance through NYSOH.

On November 8, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for the Essential Plan with a \$20.00 monthly premium for a limited time, effective December 1, 2017. The notice further directed you to submit documentation of your household income by February 5, 2018 to confirm your eligibility.

Also on November 8, 2017, NYSOH issued a notice of enrollment, confirming your enrollment in an Essential Plan, beginning December 1, 2017.

On December 11, 2017, NYSOH reviewed income documentation that you faxed to NYSOH.

On December 12, 2017, NYSOH issued a notice stating that the documentation you submitted was not sufficient to confirm the information in your

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application. The notice stated that you needed to submit documentation of your income by February 5, 2018.

On December 28, 2017, NYSOH reviewed additional income documentation that you submitted and redetermined your eligibility for financial assistance

On December 29, 2017, NYSOH issued a notice of eligibility determination stating that you were newly eligible to enroll in a QHP at full cost, effective February 1, 2018. The notice further stated that you were not eligible for Medicaid, the Essential Plan, or to receive tax credits toward the cost of your coverage because the income in your application was over \$48,240.00, which was above the allowable income limits for those programs.

On December 30, 2017, NYSOH issued a disenrollment notice, stating that your enrollment in your Essential Plan coverage was ending, effective February 1, 2018 because you were no longer eligible to remain enrolled in your Essential Plan coverage.

On January 8, 2018, you spoke to NYSOH's Account Review Unit and appealed the December 29, 2017 eligibility determination, insofar as you were not eligible for any financial assistance with the cost of health insurance.

On February 9, 2018, you updated your NYSOH application.

On February 10, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$487.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver-level QHP, beginning March 1, 2018.

Also on February 10, 2018, NYSOH issued a notice of enrollment, confirming your enrollment in a silver level QHP, with your enrollment and the application of your APTC to your monthly premium both beginning on March 1, 2018.

On February 12, 2018, you again updated your application.

On February 13, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$488.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver level QHP, effective March 1, 2018.

Also on February 13, 2018, NYSOH issued a notice of enrollment, confirming your enrollment in your silver level QHP, with the application of your \$488.00 APTC, beginning March 1, 2018.

On March 6, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, the issue under review was

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amended to reflect that you are now appealing the start date of your APTC and QHP enrollment, insofar as they began on March 1, 2018, and not February 1, 2018. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You updated your application for financial assistance through NYSOH on November 7, 2017. As a result, NYSOH found you eligible for the Essential Plan, but requested income documentation to confirm your eligibility.
- 2) On November 9, 2017, a copy of the first page of a 2016 federal income tax return (IRS Form 1040) that had been faxed to NYSOH was uploaded to your account. The document showed an adjusted gross income for 2016 of \$24,400.00 (Document [REDACTED])
- 3) Notes entered into the “Notes” tab of your NYSOH account from December 9, 2017 read as follows, “Invalid proof of income william submitted unsigned tax returns from previous year. Required documentation is signed tax returns from previous year needed to fulfill request.”
- 4) You testified that you provided the 2016 income tax return as proof of income when you were asked to do so after you updated your application in November 2017.
- 5) You testified that, after you provided the tax return, you received a phone call from NYSOH stating that the documentation was not sufficient because you had not signed it.
- 6) You testified that you no longer physically sign tax returns, so you submitted a copy of an IRS Signature Form from 2015, which you believe allows the government to access your bank account for money you owe in taxes for a period of ten years.
- 7) Your NYSOH account reflects that, on December 27, 2017, a copy of the first page of your 2016 tax return, along with a 2015 IRS e-file Signature Authorization, was uploaded to your NYSOH account, after you faxed it to NYSOH (Document [REDACTED])
- 8) Your NYSOH account reflects that NYSOH accepted this documentation as valid proof of your income, and used it to update the income information in your NYSOH account on December 28, 2017, entering a total income of \$50,222.00.

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- 9) A note in the “Notes” tab of your NYSOH account from December 28, 2017 reads as follows, “[REDACTED] submitted a 2016 1040 tax return and a 8879 Signature form. Updated income not attested to, added Additional income of: Taxable Interest: \$13,853.00 /yr, Other Income: Qualified Dividends: \$5,672.00/yr, Ordinary Dividends: \$5,672.00/yr, Capital Loss:\$3,000.00 /yr, Rental R-E, royalties, partnerships, S-Corps, trusts:\$7,875.00 /yr.”
- 10)As a result of the income update made by NYSOH on December 28, 2017, an eligibility determination was issued on December 29, 2017 stating that you were eligible to enroll in a QHP at full cost, and not eligible to receive any financial assistance because your income was over the allowable income limit.
- 11)You testified that you did not receive the December 29, 2017 eligibility determination notice, only the December 30, 2017 disenrollment notice, stating that your enrollment in your Essential Plan coverage was ending as of January 31, 2018.
- 12)You testified that you began to call NYSOH to try to find out what happened, and that the people you spoke to were unable to explain why you were being disenrolled from your coverage, and gave different reasons for your disenrollment.
- 13)You testified that you were finally able to get someone to file an appeal on your behalf, and your NYSOH account reflects that an appeal was filed on January 8, 2018.
- 14)You testified that it was not until February 2018 that someone was able to explain to you that the reason for your disenrollment from your plan was that NYSOH believed you made too much money to be eligible for financial assistance.
- 15)You testified that, when you found out that NYSOH was claiming you were not eligible for any financial assistance because of your income, you logged into your NYSOH account to try to figure out how NYSOH had determined your annual income.
- 16)You testified that, when you looked at the account, you concluded that NYSOH had added together the figures from the 2015 e-file form and the 2016 tax return form, which you found ridiculous and unfair as these numbers represented two different incomes from two different years.
- 17) You testified that, until you updated your account in February 2018, no one you spoke to from NYSOH offered to update your application for you so that you could try to get financial assistance again.

18) Your NYSOH account reflects that your application was updated on February 9, 2018 and February 12, 2018, and you were ultimately found eligible to receive up to \$488.00 per month in APTC, as well as cost-sharing reductions, and were enrolled into a QHP as of March 1, 2018.

19) You testified that you have unpaid medical bills from the month of February, and you are seeking to be able to have either your Essential Plan or your QHP coverage for the month of February 2018.

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 the Essential Plan

NYSOH must verify the eligibility of an applicant for the Essential Plan consistent with the standards set in 45 CFR § 155.315 and § 155.320 (New York's Basic Health Plan Blueprint, pgs. 16-17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>; 42 CFR § 600.345(a)(2)).

An applicant is required to attest to their household's projected annual income. (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 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)).

### Redetermination During a Benefit Year

When a redetermination is issued because 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)).

### Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP 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 issue under review is whether NYSOH properly determined that your eligibility for APTC, and your enrollment in your QHP, properly began on March 1, 2018.

On November 7, 2017, you updated your application for financial assistance. As a result of this application update you were found eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time. NYSOH directed you to submit documentation of your income to confirm your eligibility.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in the Essential Plan, NYSOH must request income data from federal data sources to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

On December 9, 2017, a copy of a 2016 IRS Form 1040 was uploaded to your NYSOH account after you faxed it to NYSOH. The record reflects that NYSOH determined this documentation was insufficient because the tax return was not



signed, and you confirmed in your testimony that you received a phone call from NYSOH informing you of this.

On December 27, 2017, documentation that you faxed to NYSOH was again uploaded to your account. This consisted of another copy of the first page of your 2016 IRS Form 1040, and a copy of a 2015 IRS e-file Signature Authorization form. NYSOH accepted this documentation as valid and utilized it to update your application.

When NYSOH was unable to verify the income you listed in your November 7, 2017 application utilizing information available from federal and state data sources, NYSOH acted properly in notifying you of this, and requesting income documentation from you to confirm the income listed in your application.

Whether the documentation you provided was sufficient to verify your income is not reviewed here, as NYSOH accepted the documentation as valid, and utilized it to update your application. However, when NYSOH did that, they had an obligation to do so in an accurate manner. Instead, though your 2016 IRS form 1040 clearly showed an adjusted gross income of \$24,400.00, NYSOH did not utilize that figure, but retained the income amount entered into your November 7, 2017 application (\$20,150.00), and then added several amounts from the Form 1040, as stated in the note quoted in fact finding number 9, above.

As a result of NYSOH inaccurately entering your income, the eligibility determination that was issued on December 29, 2017 was based on incorrect information and improperly stated that you were not eligible for financial assistance.

Had NYSOH properly entered the income information reflected in the 2016 Form 1040, which NYSOH deemed valid, then your eligibility would have been based on an expected annual income of \$24,400.00. This is the amount of income that was entered on your February 12, 2018 application, and resulted in a determination that you were eligible to receive up to \$488.00 per month in APTC, and eligible for cost-sharing reductions, if you enrolled in a silver level QHP.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second 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 after the fifteenth day of a month goes into effect on the first day of the second following month.

If NYSOH had entered the correct income on December 28, 2017, the December 29, 2017 eligibility determination would have reflected that you were eligible to receive up to \$488.00 per month in APTC, and eligible for cost-sharing reductions, effective February 1, 2018 – the first day of the second month

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following December. Likewise, if you had received a correct eligibility determination, you would have been able to select a QHP for enrollment for a February 1, 2018 start date.

Therefore, NYSOH's February 13, 2018 eligibility determination notice is MODIFIED to state that you were eligible to receive up to \$488.00 per month in APTC, and eligible for cost-sharing reductions if you enrolled in a silver level QHP, effective February 1, 2018.

Additionally, the February 13, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in your silver level QHP, along with the application of your APTC to your monthly premium, began on February 1, 2018.

Your case is RETURNED to NYSOH to backdate your QHP enrollment, along with the application of your \$488.00 APTC to your monthly premium, to February 1, 2018.

You will be responsible for your February 2018 QHP premium payment, after the application of your APTC, as a result of the backdating of your coverage.

## **Decision**

The February 13, 2018 eligibility determination notice is MODIFIED to state that your eligibility for APTC and cost-sharing reductions was effective February 1, 2018.

The February 13, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in your silver level QHP, along with the application of your APTC to your monthly premium, began on February 1, 2018.

Your case is RETURNED to NYSOH to facilitate the backdating of your QHP coverage, and the application of your APTC to your monthly premium, to February 1, 2018.

**Effective Date of this Decision:** March 15, 2018

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

Your eligibility for APTC and cost-sharing reductions should have been effective as of February 1, 2018.

Your enrollment in your QHP, and the application of your APTC to your monthly premium, should have started as of February 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).

Your case is being sent back to NYSOH to backdate your QHP enrollment, and the application of your APTC to your monthly premium, to February 1, 2018.

You will be responsible for your February 2018 QHP premium payment, after the application of your \$488.00 APTC.

## **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.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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- 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 February 13, 2018 eligibility determination notice is MODIFIED to state that your eligibility for APTC and cost-sharing reductions was effective February 1, 2018.

The February 13, 2018 enrollment confirmation notice is MODIFIED to state that your enrollment in your silver level QHP, along with the application of your APTC to your monthly premium, began on February 1, 2018.

Your case is RETURNED to NYSOH to facilitate the backdating of your QHP coverage, and the application of your APTC to your monthly premium, to February 1, 2018.

Your eligibility for APTC and cost-sharing reductions should have been effective as of February 1, 2018.

Your enrollment in your QHP, and the application of your APTC to your monthly premium, should have started as of February 1, 2018.

Your case is being sent back to NYSOH to backdate your QHP enrollment, and the application of your APTC to your monthly premium, to February 1, 2018.

You will be responsible for your February 2018 QHP premium payment, after the application of your \$488.00 APTC.

## **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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 srε wo, frε 1-855-355-5777. ye&εtumi 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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