



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

## Notice of Decision

Decision Date: May 22, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027437

[REDACTED]

Dear [REDACTED]

On March 26, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's multiple eligibility determination notices from November and December 2017 and January 13, 2018.

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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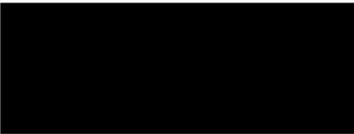


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date:

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027437



## Issue

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

Did NY State of Health (NYSOH) properly determined that you and your spouse were not eligible to receive advance payments of the premium tax credit (APTC)?

## Procedural History

On November 12, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of your family.

On November 13, 2017, NYSOH issued an eligibility determination stating, in part, that you and your spouse were eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective December 1, 2017. The notice indicated 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 you and your spouse either indicated you were not planning to file a federal tax return, or you were married and would be filing taxes separately from your spouse, or APTC was previously 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 for that year.

Also on November 13, 2017, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in a QHP.

On November 22, 2017, NYSOH issued a disenrollment notice stating the QHP enrollment for you and your spouse would end on December 31, 2017, because you were no longer eligible to enroll in the plan.

On November 24, 2017 and November 25, 2017, NYSOH issued eligibility determination notices stating you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018. The notices indicated you and your spouse were not eligible for APTC or cost-sharing reductions, because NYSOH was missing information about your taxes. Specifically, the notices stated you and your spouse either indicated you were not planning to 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 for that year.

On December 1, 2017, NYSOH issued an enrollment notice, based on your November 30, 2017 plan selection, confirming you and your spouse were enrolled in a full cost QHP, effective January 1, 2018.

On December 13, 2017, December 16, 2017 and January 13, 2018, NYSOH issued eligibility determination notices stating you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2018 and February 1, 2018, respectively. The notices again indicated you and your spouse were not eligible for APTC or cost-sharing reductions, because of tax return issues.

On January 18, 2018, your NYSOH account was updated to indicate you and your spouse were no longer applying for health coverage.

Also on January 18, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as you and your spouse were found ineligible to receive APTC.

On January 19, 2018, NYSOH issued a discontinuance notice stating you and your spouse were no longer eligible for health insurance through NYSOH, effective March 1, 2018, because you no longer wanted to receive coverage.

Also on January 19, 2018, NYSOH issued a disenrollment notice stating the QHP you and your spouse were enrolled in was terminated, effective February 1, 2018, because you were no longer eligible to enroll in health insurance through NYSOH.

On March 26, 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 allow you to submit supporting documentation.

On April 2, 2018, documentation was uploaded to your NYSOH and incorporated into the record as Appellant's [REDACTED]. 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 eligibility for APTC for you and your spouse.
- 2) You testified you are not appealing your children's eligibility.
- 3) You testified, and your account confirms, you received APTC for at least part of 2016.
- 4) Your account confirms that you and your spouse were enrolled in a QHP with APTC applied, effective January 1, 2017.
- 5) On November 12, 2017, you updated your application listing your annual household income as \$73,776.00.
- 6) According to your account, at that time NYSOH was unable to verify that you and your spouse had filed a federal tax return for 2016 and reconciled the tax credits received in that year.
- 7) NYSOH determined you and your spouse eligible to purchase a full cost QHP, effective December 1, 2017.
- 8) The November 13, 2017 eligibility determination notice indicated that you and your spouse were ineligible for APTC, effective December 1, 2017, because information about your taxes was missing.
- 9) The enrollment notice issued on November 13, 2017 confirmed that you and your spouse were enrolled in a full cost QHP. The notice provided an "enrollment start date" of January 1, 2017, but it did not indicate when your APTC would end.
- 10) You testified that you paid the full premium for your QHP for the month of December 2017.
- 11) Additional applications were submitted on behalf of you and your spouse on November 23, 2017 and November 24, 2017. Each time NYSOH determined you and your spouse ineligible for APTC, purportedly because NYSOH was unable to verify that you and your spouse had filed a federal tax return for 2016 and reconciled the tax credits received in that year.
- 12) On November 30, 2017, an enrollment request was submitted on behalf of you and your spouse for a full cost QHP. That coverage became effective January 1, 2018.

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- 13) On December 2, 2017, you uploaded a copy of a tax return transcript from the IRS for your 2016 joint tax return. The transcript confirmed the tax return was filed on [REDACTED] and that an APTC reconciliation form 8962 had been filed as well.
- 14) On December 12, 2017, December 15, 2017, and January 12, 2018, additional updated applications were received on behalf of you and your spouse. Each time, NYSOH determined you and your spouse ineligible for APTC based on missing tax information.
- 15) On January 18, 2017, your account was updated to indicate you and your spouse were no longer applying for health coverage through NYSOH.
- 16) Your enrollment was terminated, effective February 28, 2018.
- 17) You testified that you and your spouse updated the account to indicate you were no longer applying for insurance, because you could not afford the premiums of a full cost plan.
- 18) You testified that the health plan subsequently terminated the 2018 full cost QHP enrollment for you and your spouse for non-payment of the premium.
- 19) You testified you are seeking review of the eligibility of you and your spouse for APTC for the month of December 2017 as well as your eligibility for APTC going forward.
- 20) You testified that you and your spouse filed a federal tax return for 2016 on time.
- 21) You testified that you did not initially file a form 8962 with the return, but the IRS mailed a form to you and it was filled out and returned to the IRS.
- 22) You testified that you subsequently filed an amended 2016 tax return in January or February 2018.
- 23) You were directed to submit a transcript of the amended 2016 tax return.
- 24) On April 2, 2018, you uploaded a tax transcript of your 2016 joint tax return indicating the return was filed on [REDACTED]. The transcript indicates it was requested on March 26, 2018. The transcript contains the same form 8962 as the previous transcript submitted. It did not appear to include any APTC paid on your behalf in 2016.

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 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)).

### Effective Dates of Eligibility Redeterminations for Advance Payments of the Premium Tax Credit

Upon making an eligibility redetermination, NYSOH must notify the applicant, and it must implement any decreases in eligibility to receive APTC effective as of the first day of the month following the date of the notice if the change occurs on or before the 15th of the month; otherwise, the change becomes effective the first day of the second following month (45 CFR § 155.310(f), 45 CFR §

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155.330(f)(1)(i) and (f)(3)). Increases become effective the first day of the following month, regardless of when during the month the change occurs (*id.*).

### Enrollment in a Qualified Health Plan

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR § 155.410(a)(1)).

For the benefit year beginning on January 1, 2018, the national annual open enrollment period began on November 1, 2017 and extended through December 15, 2017 (45 CFR § 155.410(e)(3)). NY State extended this enrollment period through January 31, 2018 for applications processed through NYSOH ([https://www.health.ny.gov/press/releases/2017/2017-09-07\\_open\\_enrollment\\_dates.htm](https://www.health.ny.gov/press/releases/2017/2017-09-07_open_enrollment_dates.htm)).

### Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a qualified health plan, and an enrollee may change their enrollment to another plan. This is generally permitted when the enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions. (45 CFR § 155.420(d)(6)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined you and your spouse were not eligible for APTC, due to missing information about your taxes.

You testified, and your account confirms, you received APTC for the first two months of 2016. Subsequently, you and your spouse enrolled in a QHP with APTC applied, effective January 1, 2017. On November 12, 2017, you updated your application listing your annual household income as \$73,776.00. According to your account, NYSOH was unable to verify that you and your spouse had filed a federal tax return for 2016 and reconciled the tax credits received in that year. As a result, NYSOH determined you and your spouse eligible to enroll in a full cost QHP, and ineligible to receive APTC, effective December 1, 2017. You appealed 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. Since the record confirms that you received APTC in 2016, in accordance with the regulations, you were required to

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file a federal tax return for that year and reconcile the tax credits received to be eligible to receive APTC in subsequent years.

Although your account indicates that NYSOH was unable to verify that your 2016 tax return had been filed and the tax credits received that year had been reconciled following the multiple applications filed in November 2017, you subsequently uploaded a copy of an IRS tax return transcript for your 2016 tax return on December 2, 2017. That document confirms that your 2016 joint tax return was filed on [REDACTED]. Additionally, that document confirms that a form 8962 had been received by the IRS for that tax year. Form 8962 is the federal tax form intended to reconcile the tax credits received based on income attested to with the tax credits an applicant is eligible for based on actual income.

Since the record establishes that NYSOH was in possession of documentary evidence proving that your 2016 joint tax return had been filed along with federal tax form 8962, it is concluded that the eligibility determinations finding you and your spouse ineligible to receive APTC based on missing tax information are not supported by the record and must be RESCINDED.

Your case is RETURNED to NYSOH to redetermine the eligibility of you and your spouse, effective December 1, 2017, based on the record establishing you and your spouse filed a joint federal tax return for 2016 along with a federal tax form 8962. The Appeals Unit will not address whether the documentation is accurate or sufficient.

It is noted that in the event the redetermination results in you and your spouse being found eligible for APTC, this may constitute a new eligibility qualifying you and your spouse for a special enrollment period for 60 days, running from the date of the eligibility determination, for you to select a new QHP. Be advised that you will be responsible to pay the premium for any months in which you and your spouse are enrolled in coverage.

## **Decision**

All eligibility determinations issued in December 2017 and January 2018 finding you and your spouse ineligible for APTC due to missing tax information are RESCINDED.

Your case is RETURNED to NYSOH to redetermine the eligibility of you and your spouse, based on the record establishing you and your spouse filed a joint federal tax return for 2016 along with a federal tax form 8962.

In the event the redetermination results in you and your spouse being found eligible for APTC, this might constitute a new eligibility qualifying you and your spouse for a special enrollment period for 60 days.

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).

## **Effective Date of this Decision: May 22, 2018**

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

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

Your case is being sent back to NYSOH to redetermine the eligibility of you and your spouse.

You will receive an updated determination of the eligibility of you and your spouse.

If you and your spouse are found eligible for APTC, you may be eligible for a special enrollment period.

### **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**

All eligibility determinations issued in December 2017 and January 2018 finding you and your spouse ineligible for APTC due to missing tax information are **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine the eligibility of you and your spouse, based on the record establishing you and your spouse filed a joint federal tax return for 2016 along with a federal tax form 8962.

In the event the redetermination results in you and your spouse being found eligible for APTC, this might constitute a new eligibility qualifying you and your spouse for a special enrollment period for 60 days.

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

Your case is being sent back to NYSOH to redetermine the eligibility of you and your spouse.

You will receive an updated determination of the eligibility of you and your spouse.

If you and your spouse are found eligible for APTC, you may be eligible for a special enrollment period.

## **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 1-855-355-5777 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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