



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

## Notice of Decision

Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027781



Dear [REDACTED]

On March 29, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 14, 2017 and January 26, 2018 eligibility redetermination 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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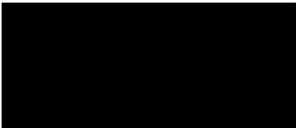


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## Decision

Decision Date: May 7, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027781



## Issue

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

Did NY State of Health (NYSOH) properly determine that you were eligible to purchase a qualified health plan (QHP) at full cost through NYSOH and not eligible for advance premium tax credits (APTC) or cost-sharing reductions, effective January 1, 2018?

## Procedural History

On December 13, 2017, you submitted an updated application for financial assistance with your health insurance.

On December 14, 2017, NYSOH issued an eligibility redetermination notice stating that you were eligible to purchase a QHP at full cost, effective January 1, 2018. That notice also stated that you were not eligible for APTC and income-based cost-sharing reductions because NYSOH was missing information about your taxes. The notice further stated that this could be because you said you would not be filing a federal tax return, or were married and filing separately, or advance payments of the premium tax credit were made to your health insurance company to reduce your premium costs in a prior year and NYSOH could not tell if a tax return was filed for that year.

On January 25, 2018, you resubmitted an updated application for financial assistance with your health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible to purchase a qualified health plan at full cost.

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Also on January 25, 2018, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as you were found not eligible for financial assistance.

On January 26, 2018, NYSOH issued an eligibility redetermination notice stating that you were eligible to purchase a QHP at full cost, effective March 1, 2018. That notice also stated that you were not eligible for APTC and income-based cost-sharing reductions because NYSOH was missing information about your taxes. The notice further stated that this could be because you said you would not be filing a federal tax return, or were married and filing separately, or advance payments of the premium tax credit were made to your health insurance company to reduce your premium costs in a prior year and NYSOH could not tell if a tax return was filed for that year.

On March 29, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was left open until April 30, 2018 for you to provide I.R.S. tax return transcripts for the 2015 and 2016 tax years as well as record of account transcripts for 2015 and 2016.

Also on April 10, 2018 and April 15, 2018, you uploaded I.R.S. tax return transcripts for the 2015 and 2016 tax years to your NYSOH account. The transcripts for 2015 and 2016 have been designated as Appellant's Exhibits [REDACTED], respectively. The record remained open until April 30, 2018 for you to submit the record of account transcripts. No further documentation was received and there was no request for an extension. Therefore, the record closed as of April 30, 2018.

## **Findings of Fact**

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

- 1) You testified that you are appealing your eligibility for financial assistance with your QHP.
- 2) In your December 13, 2017 and January 25, 2018 applications, you attested to an expected annual income of \$24,700.00.
- 3) You testified that you filed your 2015 and 2016 federal income tax returns and that you filed as single.
- 4) You testified that you received APTC towards the cost of your QHP in 2015 and 2016.
- 5) You testified that you were told there was an issue with your 2015 income tax return. Specifically, your accountant and the IRS said that it was not

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transmitted properly and as a result you did not file your 2015 income tax return until January 2018,

- 6) You testified that you reconciled your APTC when you filed your tax returns
- 7) On April 10 and April 15, 2018, you uploaded your I.R.S. tax return transcripts for the 2015 tax year to your NYSOH account. The transcript indicates that the I.R.S. received your 2015 federal income tax return on [REDACTED]. The transcript does not include information from your 1095A, nor does it contain an indication that form 8962 was completed at the time of filing.
- 8) On April 15, 2018, you uploaded your I.R.S. tax return transcripts for the 2016 tax year to your NYSOH account. The transcript indicates that the I.R.S. received your 2016 federal income tax return on [REDACTED]. The transcript does not include information from your 1095A, nor does it contain an indication that form 8962 was completed at the time of filing.
- 9) According to the I.R.S., form 8962 is used to figure the amount of your premium tax credit and reconcile it with any APTC you may have received in that tax year.

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

## **Applicable Law and Regulations**

### Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a 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)).

NYSOH may not authorize continuing APTC when APTC had been paid on behalf of the tax filer and/or spouse for a year for which the tax data would be utilized to confirm household income and size, but the tax filer and/or spouse did not file a tax return for that year (45 CFR § 155.305(f)(4)).

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

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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)).

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 § 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.*).

## **Legal Analysis**

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

According to the record, you filed a tax return in 2015 and 2016 with a tax filing status of single.

On December 13, 2017 and January 25, 2018, NYSOH received your household's applications for financial assistance. On December 16, 2017 January 26, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2018, and ineligible to receive APTC or cost-sharing reductions. This was because APTC was paid to your health insurance company on your behalf in a prior year and NYSOH could not ascertain if a federal tax return was filed or reconciled for that year.

You submitted your IRS tax transcript for your 2015 tax return. This indicates that your 2016 tax return was initially filed on [REDACTED]. However, the transcript indicates that at the time of your filing, you had not reconciled your 2015 APTC, which is reconciled on "IRS Form 8962 Premium Tax Credit".

You also submitted your IRS tax transcript for your 2016 tax return. This indicates that your 2016 tax return was initially filed on [REDACTED]. However, the transcript also indicates that at the time of your filing, you had not reconciled your 2016 APTC, which is reconciled on "IRS Form 8962 Premium Tax Credit".

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.

As you received APTC in 2015 and 2016, you were required to file a tax return for 2015 and 2016, and reconcile the APTC you received in both years. As your 2015 APTC and 2016 APTC was not reconciled on your 2015 and 2016 tax returns at the time of your December 13, 2017 application or January 25, 2018 application, NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost through NYSOH, and ineligible to receive APTC or cost-sharing reductions.

Therefore, the December 16, 2017 and January 26, 2018 eligibility determination notices were correct and are AFFIRMED.

However, you testified that you did reconcile your APTC when you filed your tax returns. Therefore, your case is RETURNED to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2015 and 2016 tax return reconciling your APTC, and to determine if you are eligible for financial assistance with health insurance based on the updated record.

## **Decision**

The December 14, 2017 eligibility redetermination notice is AFFIRMED.

The January 26, 2018 eligibility redetermination notice is AFFIRMED.

Your case is RETURNED to NYSOH to rerun your application in order to ascertain whether the IRS data sources now reflect that you have filed your 2015 and 2016 tax return reconciling your APTC, and to determine if you are eligible for financial assistance with health insurance based on the updated record.

## **Effective Date of this Decision: May 7, 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).

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

This decision does not change your current eligibility.

Your case is being sent back to rerun your application to see if the IRS data sources of updated to reflect that you did in fact properly reconcile your tax credits on your 2015 and 2016 income tax returns.

## **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.

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 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 14, 2017 eligibility redetermination notice is AFFIRMED.

The January 26, 2018 eligibility redetermination notice is AFFIRMED.

This decision does not change your eligibility.

Your case is being sent back to rerun your application to see if the IRS data sources of updated to reflect that you did in fact properly reconcile your tax credits on your 2015 and 2016 income tax returns.

## **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. ye&btumi ama wo obi a okyerE 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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