



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

## Notice of Decision

Decision Date: April 12, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027925

[REDACTED]

On April 5, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 18, 2017 enrollment confirmation notice, January 23, 2018 eligibility determination notice and the January 23, 2018 enrollment confirmation notice.

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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## Decision

Decision Date: April 12, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027925

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that an advance premium tax credit of \$650.00 was applied to your and your spouse's monthly premium for the month of January 2018?

Did NY State of Health properly determine that advance premium tax credits of \$851.00 were applied to your and your spouse's monthly premium as of March 1, 2018?

## Procedural History

On December 1, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you and your spouse were eligible for up to \$650.00 per month in advance payments of the premium tax credit (APTC) and cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2017.

Also on December 1, 2016, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2017 and that APTC of \$650.00 would be applied to your monthly premium as of January 1, 2017.

On September 4, 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, you and your spouse qualified for

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up to \$677.14 per month in APTC and cost-sharing reductions if you enrolled in a silver level qualified health plan, effective November 1, 2017.

On September 17, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2017 and that APTC of \$650.00 would be applied to your monthly premium as of January 1, 2017.

On October 28, 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, you and your spouse qualified for up to \$850.83 per month in APTC and cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2018.

On November 18, 2017, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2018 and that APTC of \$650.00 would be applied to your monthly premium as of January 1, 2018.

On December 2, 2017, NYSOH issued a notice that it was time to renew your and your spouse's 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 account by January 18, 2018 or you and your spouse might lose your health insurance coverage and if applicable, any financial assistance.

No updates were made to your account by January 18, 2018.

On January 20, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2018, and that you and your spouse no longer qualified for APTC with cost-sharing reductions as of January 31, 2018. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

Also on January 20, 2018, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2018.

On January 22, 2018, NYSOH received your updated application for health insurance.

On January 23, 2018, NYSOH issued a notice of eligibility determination stating that you and your spouse eligible for up to \$851.00 per month in APTC and cost-

sharing reductions if you enrolled in a silver level qualified health plan, effective March 1, 2018.

Also on January 23, 2018, NYSOH issued notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2018 and that no APTC was applied to your premium.

On January 29, 2018, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on March 1, 2018.

On February 3, 2018, NYSOH issued a notice of enrollment confirmation stating that you and your spouse were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2018 and that APTC of \$851.00 would be applied to your premium as of March 1, 2018.

On March 29, 2018, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On April 5, 2018, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the 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) You testified that you are seeking for your full APTC to be applied to your January 2018 premium and to be found eligible for APTC of \$851.00 as of February 2018.
- 2) You testified that you had previously elected to receive alerts from NYSOH via electronic mail, however, you were having trouble accessing your account on-line, so you changed this preference to regular mail in November 2017.
- 3) You testified that you did not receive the December 2, 2017 renewal notice from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your and your spouse's coverage would not be interrupted and that your financial assistance would continue.

- 4) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you did not know you needed to renew your application until you received two conflicting bills from your qualified health plan in January 2018 regarding your February 2018 premium.
- 6) You testified that you contacted NYSOH several times in January 2018 because of problems with your child's coverage, and it was during this timeframe that you had to update your entire application, you could not recall specifically when this was.
- 7) Your NYSOH account reflects that you updated your application on January 22, 2018.
- 8) You testified that you never requested that less than your full tax credit be applied to your and your spouse's qualified health plan premium.

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 that contains the information by which 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 information and 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.

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).

## Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not made) on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the overall benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15<sup>th</sup> of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2). New York has specified that changes made after the 15<sup>th</sup> of a given month will take effect the month after the following month.

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

## End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that an advance premium tax credit of \$650.00 was applied to your and your spouse's monthly premium for the month of January 2018.

An individual may elect to apply all or part of their APTC to their monthly premium.

The record reflects that you and your spouse were found eligible for up to \$650.00 per month in APTC effective January 1, 2017. Thereafter, when NYSOH redetermined your household's eligibility for financial assistance on September 4, 2017 and October 28, 2017, although you were determined eligible for a greater amount of APTC, NYSOH continued to apply the previous amount of \$650.00 per month to your premiums.

In the October 28, 2017 renewal notice, you and your spouse were found eligible for up to \$850.83 per month in APTC.

You credibly testified that you did not request that less than your full APTC amount be applied to your and your spouse's premiums.

Therefore, the November 18, 2017 enrollment confirmation notice is MODIFIED to state that, rounding to the nearest whole dollar, APTC of \$851.00 is applied to your and your spouse's qualified health plan premium for the month of January 2018.

The second issue under review is whether NYSOH properly determined that advance premium tax credits of \$851.00 were applied to your and your spouse's monthly premium as of March 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 December 2, 2017, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you and your spouse would qualify for financial help with paying for your health coverage. You were asked to update the information in your account by January 18, 2018 or you and your spouse were at risk of losing your health insurance and, if applicable, any financial assistance.

Because there was no timely response to this notice, your and your spouse's eligibility for financial assistance terminated effective January 31, 2018.

You testified that you did not receive the December 2, 2017 notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified that as of November 2017 you had elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.



Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your and your spouse's enrollment in your health plan and eligibility for financial assistance would continue.

The record shows that on January 22, 2018 you updated the information in your NYSOH account.

Any changes in APTC are to be made effective the first of the month following the eligibility redetermination notice.

Since you updated your application on January 22, 2018, any changes in APTC should have been made effective as of February 1, 2018.

Therefore, NYSOH's January 23, 2018 eligibility determination notice and January 23, 2018 enrollment confirmation notice are MODIFIED to reflect that your and your spouse's eligibility for up to \$851.00 per month in APTC was effective as of February 1, 2018 and applied to your monthly premium as of February 1, 2018.

Your case is RETURNED to NYSOH to apply \$851.00 in APTC to your and your spouse's monthly premium for January 2018 and February 2018.

## **Decision**

The November 18, 2017 enrollment confirmation notice is MODIFIED to state that \$851.00 in APTC was applied to your and your spouse's qualified health plan premium as of January 1, 2018.

The January 23, 2018 eligibility determination notice is MODIFIED to state that you and your spouse were eligible for up to \$851.00 per month in APTC effective February 1, 2018.

The January 23, 2018 enrollment confirmation notice is MODIFIED to state \$851.00 per month in APTC was applied to your and your spouse's monthly premium as of February 1, 2018.

Your case is RETURNED to NYSOH to apply \$851.00 in APTC to your and your spouse's monthly premium for January 2018 and February 2018.

**Effective Date of this Decision:** April 12, 2018

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

NYSOH should have applied \$851.00 per month in APTC to your monthly premium for January 2018 and February 2018.

Your case is being sent back to NYSOH to apply your APTC of \$851.00 to your monthly premium for January 2018 and February 2018.

## **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 November 18, 2017 enrollment confirmation notice is MODIFIED to state that \$851.00 in APTC was applied to your and your spouse's qualified health plan premium as of January 1, 2018.

The January 23, 2018 eligibility determination notice is MODIFIED to state that you and your spouse were eligible for up to \$851.00 per month in APTC effective February 1, 2018.

The January 23, 2018 enrollment confirmation notice is MODIFIED to state \$851.00 per month in APTC was applied to your and your spouse's monthly premium as of February 1, 2018.

Your case is RETURNED to NYSOH to apply \$851.00 in APTC to your and your spouse's monthly premium for January 2018 and February 2018.

NYSOH should have applied \$851.00 per month in APTC to your monthly premium for January 2018 and February 2018.

Your case is being sent back to NYSOH to apply your APTC of \$851.00 to your monthly premium for January 2018 and February 2018.

## **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 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।

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).

## **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&etumi 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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