

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

## Notice of Decision

Decision Date: April 9, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027964

[REDACTED]

[REDACTED]

On March 19, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2017 eligibility determination and enrollment confirmation notices, and the January 4, 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.

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).

This page intentionally left blank.



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

## Decision

Decision Date: April 9, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027964



## Issues

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

Did NY State of Health (NYSOH) properly determine that you and your spouse were enrolled in a qualified health plan at full cost, effective January 1, 2018?

Did NYSOH properly determine that your and your spouse's eligibility for advance payments of the premium tax credit (APTC) was effective February 1, 2018?

## Procedural History

On November 20, 2017, you submitted an updated application for financial assistance.

On November 21, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$685.00 in APTC for a limited time, effective January 1, 2018. You were directed to produce proof of income by February 18, 2018, to confirm your shared eligibility.

Also on November 21, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan, effective January 1, 2018.

On December 18, 2017, you provided income documentation.

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).

On December 20, 2017, your documentation was verified as sufficient proof of income and an application was run on your behalf.

On December 21, 2017, NYSOH issued an eligibility redetermination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost. This eligibility was effective February 1, 2018.

Also on December 21, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan at full cost, effective January 1, 2018.

On January 3, 2018, you submitted an updated application for financial assistance with health insurance.

On January 4, 2018, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$661.00 in APTC, effective February 1, 2018.

Also on January 4, 2018, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a qualified health plan with a monthly premium responsibility of \$778.32, after the application of \$661.00 in APTC. Your and your spouse's enrollment was effective January 1, 2018, and the application of APTC was effective February 1, 2018.

On January 29, 2018, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination and enrollment confirmation notices insofar as they began your financial assistance with APTC as of February 1, 2018, and not January 1, 2018.

On March 19, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. 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 testified that you expect to file your 2018 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking financial assistance for insurance for you and your spouse for January 2018.
- 3) The application that was submitted online on December 20, 2017, listed annual household income of \$70,200.00, consisting of \$31,200.00 you earn

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).

from your employment, and \$39,000.00 your spouse earns from her employment. You testified that this amount was incorrect.

- 4) You testified that you and your spouse do not work every week and that your hours are not consistent.
- 5) You testified that you expect your annual income in 2018 to be \$21,600.00, and you expect your wife to earn \$27,000.00.
- 6) You submitted the following paychecks for your spouse:
  - a. dated November 18, 2017 for a gross \$1,500.00, for the period starting September 3, 2017 and ending September 16, 2017;
  - b. dated December 4, 2017 for a gross \$1,500.00 for the period starting September 17, 2017 and ending September 30, 2017;
  - c. dated December 8, 2017 for a gross \$1,500.00 for the period starting October 1, 2017 and ending October 14, 2017.
- 7) You submitted the following paychecks for yourself:
  - a. dated November 18, 2017 for a gross \$1,200.00, for the period starting September 3, 2017 and ending September 16, 2017;
  - b. dated December 4, 2017 for a gross \$1,200.00 for the period starting September 17, 2017 and ending September 30, 2017;
  - c. dated December 8, 2017 for a gross \$1,200.00 for the period starting October 1, 2017 and ending October 14, 2017.
- 8) Your application states that you and your spouse will not be taking any deductions on your 2018 tax return.
- 9) Your application states that you and your spouse live in [REDACTED], NY.
- 10) You updated the income information in your NYSOH account on January 3, 2018.

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

## **Applicable Law and Regulations**

### Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to

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).

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 QHP, 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)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

*minus*

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2018 is set by federal law at 2.01% to 9.59% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3, IRS Rev. Proc. 2017-36).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2017 FPL, which is \$16,240.00 for a two-person household (82 Federal Register 8831).

For annual household income in the range of at least 300% but less than 400% of the 2017 FPL, the expected contribution in 2018 is 9.56% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2017-36).

People who use the 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).

## Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

## Redetermination During a Benefit Year

When a redetermination is issued as a result 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)).

When an eligibility redetermination results in a change in the amount of advance payments of the premium tax credit (APTC) for the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already 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 that benefit year (45 CFR § 155.330(g)).

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)).

## Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan 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 first issue under review is whether NYSOH properly determined that you and your spouse were enrolled in a qualified health plan at full cost, effective January 1, 2018.

The application that was submitted on December 20, 2017, listed an annual household income of \$70,200.00 and the eligibility determination relied upon that information. You testified that this was incorrect, and that your household's income would be less.

You submitted the following paychecks for your spouse: dated November 18, 2017 for a gross amount of \$1,500.00; dated December 4, 2017 for a gross amount of \$1,500.00; and dated December 8, 2017 for a gross amount of \$1,500.00. Each paycheck covered a two-week period.

You submitted the following paychecks for yourself: dated November 18, 2017 for a gross amount of \$1,200.00; dated December 4, 2017 for a gross amount of \$1,200.00; and dated December 8, 2017 for a gross amount of \$1,200.00. Each paycheck covered a two-week period. Although you testified that you and your spouse do not work every week and that your hours are not consistent, a reasonable calculation of your documentation yields an annual household income of \$70,200.00 ( $\$1,500 \times 26 = \$39,000.00$  and  $\$1,200.00 \times 26 = \$31,200.00$ ).

Therefore, NYSOH properly determined your eligibility with an annual expected household income of \$70,200.00.

You and your spouse are in a two-person household for purposes of this analysis. This is because you expect to file your 2018 income taxes as married filing jointly and will claim no dependents on that tax return. Your household is also in Rockland County.

Advanced payments of the premium tax credit 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 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 QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market.



In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested. On the date of your application, that was the 2017 FPL, which is \$16,240.00 for a two-person household. The income amount included in your December 20, 2017 application, \$70,200.00, is 432.27% of the 2017 FPL for a two-person household. As APTC is only available to individuals who expect to have a household income less than 400% of the FPL, you and your spouse were not eligible to receive APTC to help pay for the cost of health coverage based on your household income as calculated.

Since the December 21, 2017 eligibility redetermination notice properly stated that, based on the information you provided, you and your spouse were eligible to purchase a qualified health plan at full cost, it is correct and is AFFIRMED.

As stated above, any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Since your application was updated on December 20, 2017, and NYSOH issued an eligibility determination notice on December 21, 2017, any changes in APTC should have been made effective as of January 1, 2018. Therefore, the December 21, 2017 enrollment confirmation notices stating that you and your spouse were enrolled in a qualified health plan at full cost, effective January 1, 2018 is correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your and your spouse's eligibility for APTC was effective February 1, 2018.

On January 3, 2018, you updated the income information in your NYSOH account and decreased your household's expected income for 2018. On January 4, 2018, an eligibility redetermination notice was issued stating that you and your spouse were eligible to receive up to \$661.00 in APTC, effective February 1, 2018.

As stated above, any changes in APTC are to be made effective the date following the eligibility redetermination notice.

Since you updated your application on January 3, 2018, and NYSOH issued an eligibility redetermination notice on January 4, 2018, any changes in APTC should have been made effective as of February 1, 2018. Therefore, NYSOH's January 4, 2018 eligibility redetermination and enrollment confirmation notices are correct and are AFFIRMED.

## **Decision**

The December 21, 2017 eligibility redetermination notice is AFFIRMED.

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).

The December 21, 2017 enrollment confirmation notice is AFFIRMED.

The January 4, 2018 eligibility redetermination notice is AFFIRMED.

The January 4, 2018 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** April 9, 2018

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

This decision does not change your and your spouse's eligibility.

You and your spouse were properly enrolled in a qualified health plan at full cost, effective January 1, 2018.

NYSOH properly redetermined you and your spouse to be eligible for APTC, effective February 1, 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

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).

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 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 21, 2017 eligibility redetermination notice is AFFIRMED.

The December 21, 2017 enrollment confirmation notice is AFFIRMED.

You and your spouse were properly enrolled in a qualified health plan at full cost, effective January 1, 2018.

The January 4, 2018 eligibility determination notice is AFFIRMED.

The January 4, 2018 enrollment confirmation notice is AFFIRMED.

NYSOH properly redetermined you and your spouse to be eligible for APTC, effective February 1, 2018.

This decision does not change your and your spouse's eligibility.

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).

## **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।

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 bεtumi 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.

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).