



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

### **Notice of Decision**

Decision Date: May 29, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028193



Dear [REDACTED]

On April 16, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 1, 2018 eligibility determination 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 NY State of Health 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: May 29, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028193



## Issue

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

Did NY State of Health properly determine you and your child were not eligible for advance payments of the premium tax credit or cost-sharing reductions, effective March 1, 2018?

## Procedural History

On January 31, 2018, NY State of Health (NYSOH) received your and your child's application for health insurance. That day, a preliminary eligibility determination was prepared stating that you and your child were eligible to enroll in a qualified health plan. However, you both did not qualify for advance premium tax credits (APTC) or cost-sharing reductions.

Also on January 31, 2018, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your and your child's ineligibility for financial assistance.

On February 1, 2018, NYSOH issued an eligibility determination notice stating that you and your child were eligible to purchase a qualified health plan at full cost beginning March 1, 2018. It stated that you and your child did not qualify for APTC because your application states that the primary tax filers in your household are married but not filing taxes jointly. It also stated that you and your child do not qualify for cost-sharing reductions because you are not eligible for APTC.

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 April 16, 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 May 23, 2018, to allow you time to submit supporting documentation.

On May 21, 2018, you submitted a copy of your 2016 NYS income tax return. This document was made part of the record as "Appellant's Exhibit A." No further documentation was received by the NYSOH Appeals Unit as of May 23, 2018, and the record closed that day.

## **Findings of Fact**

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

- 1) According to your NYSOH account, you plan to file your 2018 income taxes as married filing single and will claim one dependent on that tax return, your child.
- 2) You testified that you might file married filing jointly or head of household and claim one dependent on your 2018 income tax return.
- 3) On May 21, 2018, you submitted a copy of your 2016 NYS income tax return that shows you filed married filing jointly and claimed one dependent on that tax return (see Appellant's Exhibit A, [REDACTED]). It does not show that you plan on filing married filing jointly and/or are head of household and claiming a dependent in 2018.
- 4) You testified that you are currently married and although you plan to legally divorce your spouse, you have not obtained a decree of divorce or of separate maintenance.
- 5) You testified that you last lived with your spouse in February 2017. You testified that although you and your spouse maintain separate households, you reside in the same building.
- 6) You testified that your child resides with your spouse who provides the majority of the support for him.
- 7) You testified that you believe that your eligibility determination should not include your spouse's income.
- 8) Your application states that you live in [REDACTED], NY.

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

## Applicable Law and Regulations

### Advance Payments of the Premium Tax Credit

APTC is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable 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)).

Additionally, a tax filer who is married must file a joint return with his or her spouse to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
  - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
  - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
  - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

### Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

## Legal Analysis

The issue under review is whether NYSOH properly determined that you and your child were not eligible for APTC and cost-sharing reductions.

In the eligibility determination notice issued on February 1, 2018, NYSOH determined you and your child to be ineligible for APTC because you indicated that you were married but did not plan to file a joint federal income tax return.

You testified that you believe that your eligibility determination should not include your spouse's income.

In order to exclude your spouse's income from your eligibility, a person must qualify as "not married" at the close of the tax year.

According to the information in the record and your testimony at the hearing, you are still married to your spouse, and have not obtained a decree of divorce or of separate maintenance.

There is an exception, as noted above, that allows a tax filer to be treated as "not married" at the close of a taxable year, making the tax filer eligible for APTC.

You testified that you might file married filing jointly or head of household and claim one dependent on your 2018 income tax return. However, you did not submit any proof that your tax filing status would differ in 2018 from what you reported on your application. Therefore, this decision is based on the information available in the record.

In your case, your application states that you were married but did not plan to file a joint federal income tax return. For you to qualify as "not married" you must meet all three of the criteria noted above. You testified that your child resides with your spouse who provides the majority of the support for him, such that the record does not support that you maintain your household as the primary home for your child or that you pay more than one half of the cost of keeping up his home for the tax year. Therefore, the record does not support a finding that you meet the necessary requirements for that exception.

Therefore, NYSOH was correct when it found that you and your child were not eligible for APTC due to your tax filing status.

Cost-sharing reductions are available only to those who meet the requirements for APTC. Since you and your child did not qualify for APTC, NYSOH correctly found that you were not eligible for cost-sharing reductions.

Since NYSOH correctly determined that you and your child are not eligible for APTC or cost-sharing reductions, the February 1, 2018 eligibility determination notice is AFFIRMED.

## **Decision**

The February 1, 2018 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** May 29, 2018

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

You and your child remain eligible to purchase a qualified health plan at full cost through New York State of Health.

You and your child remain ineligible for APTC because you are married filing single and do not meet the criteria to qualify as “not married.”

You and your child remain ineligible for cost-sharing reductions because you are not eligible for APTC.

This Decision does not affect any of your or your child’s subsequent eligibility determinations.

## **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 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 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 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 February 1, 2018 eligibility determination notice is **AFFIRMED**.

You and your child remain eligible to purchase a qualified health plan at full cost through New York State of Health.

You and your child remain ineligible for APTC because you are married filing single and do not meet the criteria to qualify as “not married.”

You and your child remain ineligible for cost-sharing reductions because you are not eligible for APTC.

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 Decision does not affect any of your or your child's subsequent eligibility determinations.

### **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।

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 मदद 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. y&b&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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