

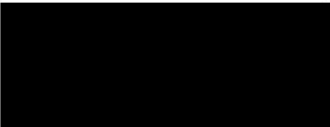


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: May 1, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: APM29606283 (Formerly AP000000028427)



Dear [REDACTED],

On April 25, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: May 1, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: APM29606283 (Formerly AP000000028427)



## 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 enrolled in a qualified health plan (QHP) for the month of February 2018, with no advance payments of the premium tax credit (APTC) applied to your premium?

## Procedural History

On December 2, 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 were eligible to receive up to \$331.14 per month in APTC, and eligible for cost sharing reductions if you enrolled in a silver level QHP, beginning February 1, 2018. The notice further stated you were no longer eligible for the Essential Plan, effective January 31, 2018. The notice further stated you should pick a health plan between December 16, 2017 and January 18, 2018, and that your coverage would not begin until you selected a health plan.

On December 17, 2017, NYSOH issued a disenrollment notice, stating your enrollment in your Essential Plan was ending, effective January 31, 2018, because you were no longer eligible to enroll in that plan.

On January 18, 2018, you updated your NYSOH account and selected a QHP for enrollment.

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On January 19, 2018, NYSOH issued an eligibility determination notice stating that you were newly eligible to enroll in a QHP at full cost, effective March 1, 2018. The notice further stated you no longer qualified for APTC, effective February 28, 2018. This was because information from state and federal data sources showed you were already enrolled in, or eligible for, a public insurance program such as Medicare.

Also on January 19, 2018, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in a QHP, beginning March 1, 2018, with a \$415.99 monthly premium.

On January 27, 2018, NYSOH issued an updated enrollment confirmation notice stating your enrollment in your QHP began on February 1, 2018, and that your monthly premium was \$415.99.

On February 5, 2018, you spoke to NYSOH's Account Review Unit and appealed the January 27, 2018 enrollment confirmation notice, insofar as no APTC was applied to your monthly premium in the month of February 2018.

On April 25, 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 you received the December 2, 2017 renewal notice and saw that you were eligible for a tax credit of \$300.00 or so.
- 2) You testified after that point, you forgot that you needed to enroll in a plan and did not do so.
- 3) You testified that, when you remembered you had not selected a health plan, you looked for the renewal notice from NYSOH, and it stated you had until the 18<sup>th</sup> of January 2018 to enroll in a plan.
- 4) You testified you happened to read this notice on January 18<sup>th</sup>, 2018, so you contacted NYSOH that day to pick a plan.
- 5) Your NYSOH account reflects NYSOH issue an enrollment confirmation on January 19, 2018 stating your enrollment in a QHP began on March 1, 2018. NYSOH also issued an eligibility determination notice that day stating you were no longer eligible to receive APTC, effective February 28, 2018, because you were eligible for, or enrolled in, Medicare.

- 6) You testified you knew you had Medicare coverage as of March 2018, so you asked the NYSOH representative to backdate your enrollment to February 1, 2018.
- 7) You testified NYSOH told you the deadline for enrollment in a plan with a start date of February 1, 2018 was January 15, 2018, but acknowledged your renewal notice said you had until January 18, 2018 to select a plan.
- 8) You testified NYSOH backdated your enrollment in your plan, but could not apply your APTC to your premium for that month, so you enrolled and paid the full premium for February 2018.
- 9) You testified you are looking to be reimbursed for the difference between what you paid, and what you would have owed if your APTC had been applied to your February 2018 premium.
- 10) You testified you believe you should receive APTC for February 2018 because the renewal notice told you that you had until January 18, 2018 to enroll in coverage, and you enrolled within this timeframe.
- 11) Your NYSOH account reflects you were disenrolled from your QHP, effective February 28, 2018.

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

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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.

### 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).

### Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP 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 issue under review is whether NYSOH properly determined that you were enrolled in a QHP during the month of February 2018 with no APTC applied to your monthly premium payment.

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 you were eligible to receive up to \$331.14 per month in APTC, and eligible for cost-sharing reductions, effective February 1, 2018. The notice also stated you needed to select a health plan for enrollment, as well as

make any necessary changes to your application, between December 16, 2017 and January 18, 2018.

You testified that you received the December 2, 2017 renewal notice, but then forgot about it until January 18, 2018. You testified you looked for the notice and discovered you had until that day (January 18, 2018) to enroll in a plan. You testified you called NYSOH, but NYSOH was unable to enroll you as of February 1, 2018. You testified NYSOH informed you this was because it was after the 15<sup>th</sup> of January, but acknowledged your renewal notice did say you had until the 18<sup>th</sup> of January to enroll in coverage.

Based on the error in your renewal notice, NYSOH requested the backdating of your enrollment to February 1, 2018, and this request was granted. As a result, a new enrollment notice was issued on January 27, 2018, indicating your enrollment would begin on February 1, 2018. However, no APTC was applied to your monthly premium. You testified NYSOH informed you they were unable to apply any APTC to that premium because the enrollment was completed after the 15<sup>th</sup> of the month, and advised you to file an appeal.

When an individual changes information in their application after the 15<sup>th</sup> of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

Ordinarily, then, your enrollment in your account would not have started until March 1, 2018, as you selected your plan for enrollment on January 18, 2018. As such, the application of your APTC would also ordinarily not have started until March 1, 2018. However, because the renewal notice advised you that you had until January 18, 2018 both to enroll in a plan, AND to make changes to your NYSOH account, it was reasonable for you to expect your enrollment, and the application of your APTC, would begin on February 1, 2018.

Therefore, NYSOH's January 27, 2018 enrollment confirmation notice is MODIFIED to state you were enrolled in your QHP, with the application of your \$331.00 APTC to your monthly premium, beginning February 1, 2018.

Your case is RETURNED to NYSOH to ensure you are reimbursed for the difference between the premium payment you made for February 2018, and the amount your premium payment would have been if your \$331.00 APTC had been applied in that month.

As you were disenrolled from your QHP as of February 28, 2018, this decision pertains to the month of February 2018 only.

## **Decision**

The January 27, 2018 enrollment confirmation notice is MODIFIED to state you were enrolled in your QHP, with the application of your \$331.00 APTC to your monthly premium payment, beginning February 1, 2018.

Your case is RETURNED to NYSOH to ensure you are reimbursed for the difference between the premium payment you made for February 2018, and the amount your premium payment would have been if your \$331.00 APTC had been applied in that month.

This decision pertains to the month of February 2018 only, as you were disenrolled from your QHP coverage as of February 28, 2018.

**Effective Date of this Decision:** May 1, 2018

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

You were eligible to receive APTC in the month of February 2018, pursuant to the information contained in the December 2, 2017 renewal notice.

Your case is being sent back to NYSOH to ensure you are reimbursed for the difference between the premium payment you made, and the amount you would have owed if your APTC had been applied to your February 2018 premium.

## **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 January 27, 2018 enrollment confirmation notice is MODIFIED to state you were enrolled in your QHP, with the application of your \$331.00 APTC to your monthly premium payment, beginning February 1, 2018.

Your case is RETURNED to NYSOH to ensure you are reimbursed for the difference between the premium payment you made for February 2018, and the amount your premium payment would have been if your \$331.00 APTC had been applied in that month.

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This decision pertains to the month of February 2018 only, as you were disenrolled from your QHP coverage as of February 28, 2018.

You were eligible to receive APTC in the month of February 2018, pursuant to the information contained in the December 2, 2017 renewal notice.

Your case is being sent back to NYSOH to ensure you are reimbursed for the difference between the premium payment you made, and the amount you would have owed if your APTC had been applied to your February 2018 premium.

## **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।

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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 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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