



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

## Notice of Decision

Decision Date: May 8, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028560



Dear [REDACTED]

On May 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 26, 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 number 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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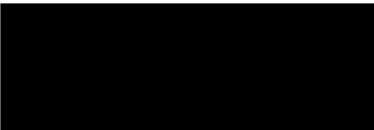


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## **Decision**

Decision Date: May 8, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028560



## **Issue**

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

Did NYSOH properly determine that you were ineligible for advance payment of premium tax credit (APTC) as of January 26, 2018?

## **Procedural History**

On January 25, 2018, you submitted an application for financial assistance through NYSOH.

On January 26, 2018, NYSOH issued an eligibility determination stating that you were eligible to purchase a qualified health plan at full cost, effective March 1, 2018.

On February 5, 2018, NYSOH received your appeal request. You requested an appeal insofar as you were determined ineligible for financial assistance (see Documents [REDACTED] [REDACTED]).

On April 5, 2018, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The Hearing Officer adjourned the hearing to allow all the necessary parties to be present at the hearing. The hearing was returned to NYSOH to be rescheduled.

On May 2, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was closed at the end of the hearing.

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## Findings of Fact

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

- 1) According to your NYSOH account and testimony, you are applying for health insurance for yourself.
- 2) According to your January 25, 2018 application, your parent, [REDACTED] [REDACTED] would be claiming you as a dependent on their tax return.
- 3) You testified that your parent would not be claiming you as a dependent on their 2018 federal income tax return.
- 4) You testified that you expected to file a 2018 federal income tax return with the tax status of single, and did not expect to claim any dependents on that tax return.
- 5) You testified that you are employed at [REDACTED] [REDACTED] [REDACTED] and that is your only source of income.
- 6) You testified that your annual salary is \$55,000.00.
- 7) You testified that you expect to pay \$1,198.72 toward the interest on your student loans in 2018.
- 8) You testified that you want your living expenses to be considered when your financial assistance is calculated.
- 9) According to your NYSOH account, you reside in [REDACTED], New York.

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

## Applicable Law and Regulations

### 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)).

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“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)).

Subject to limitations, there shall be allowed as a deduction from the adjusted gross income, an amount not to exceed \$2,500.00, equal to the interest paid by the taxpayer during the taxable year on any qualified education loan (26 USC § 221; IRS Publication 970 (2017)).

Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income (26 USC § 262(a)).

### Household Composition

For APTC, the household size equals the number of individuals for whom the taxpayers are allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

### Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are available to a person who: (1) is eligible to enroll in a QHP; (2) expects to have a household income greater or equal to 100% but no more than 400% of the applicable federal poverty level (FPL), (3) 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 (4) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f)(1)).

An exemption may be claimed for each individual who is a dependent of the taxpayer for the taxable year. A dependent cannot claim their own personal exemption on their own tax return (26 USC § 151(c), Internal Revenue Service (IRS) Publication 501 (2017)).

### Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).



## Legal Analysis

The issue under review is whether NYSOH properly determine that you were ineligible for APTC as of January 26, 2018.

One of the requirements for an individual to be eligible to receive APTC is that they must expect to file a federal income tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP.

According to your January 25, 2018 application, you attested that your parent would be claiming you as a dependent on their tax return. An exemption may be claimed for each individual who is a dependent of the taxpayer for the taxable year. A dependent cannot claim their own personal exemption on their own tax return. Based on your attestations in your January 23, 2018 application, NYSOH properly determined that you were ineligible for APTC.

Therefore, the January 26, 2018 eligibility determination notice was correct when made and is AFFIRMED.

An individual who expects to file a federal income tax return, the household equals the taxpayers and the number of individuals for whom the taxpayer is claiming as a dependent.

You testified that you expect to file a 2018 federal income tax return with the tax status of single, and do not expect to claim any dependents on that tax return, which differs from your tax filing status in your January 25, 2018 application.

You are required to report changes to NYSOH, including household size which depends on your tax filing status, within 30 days of the change. NYSOH's Appeals Unit does not have the authority to change your tax filing status based on your testimony. Therefore, your case is RETURNED to NYSOH to assist you in updating your NYSOH application to reflect a tax filings status of single with no dependents.

You testified that you are employed at [REDACTED] and your annual salary is \$55,000.00. Further, you testified that you expect to pay \$1,198.72 toward the interest on your student loans in 2018. Therefore, your expected annual income is  $(\$55,000.00 - \$1,198.72)$  \$53,801.28.

During the hearing, you asked that your current living expenses be considered when calculating your annual household income. Since the Internal Revenue Service rules do not allow living expenses to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the NYSOH computes your modified adjusted gross income for APTC purposes. Therefore, your 2018 annual household income is \$53,801.28.

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).

Your case is RETURNED to NYSOH to assist you in updating your application to reflect a tax filing status to single with no dependents. NYSOH is directed to, thereafter, redetermine your eligibility using a one-person household for an individual residing in [REDACTED], with an annual household income of \$53,801.28.

## **Decision**

The January 26, 2018 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to assist you in updating your application to reflect a tax filing status to single with no dependents. NYSOH is directed to, thereafter, redetermine your eligibility using a one-person household for an individual residing in Queens County, with an annual household income of \$53,801.28, and to notify you of its redetermination accordingly.

**Effective Date of this Decision:** May 8, 2018

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

This decision does not change your eligibility for or enrollment in health insurance coverage through NYSOH.

NYSOH will contact you to assist you in updating your NYSOH application to reflect the change in your tax filing status and to redetermine your eligibility for financial assistance based on the parameters noted above. NYSOH will notify you of its redetermination.

## **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

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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 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 26, 2018 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to assist you in updating your application to reflect a tax filing status to single with no dependents. NYSOH is directed to, thereafter, redetermine your eligibility using a one-person household for an individual residing in Queens County, with an annual household income of \$53,801.28, and to notify you of its redetermination accordingly.

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 change your eligibility for or enrollment in health insurance coverage through NYSOH.

NYSOH will contact you to assist you in updating your NYSOH application to reflect the change in your tax filing status and to redetermine your eligibility for financial assistance based on the parameters noted above. NYSOH will notify you of its redetermination.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545(a).

**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. 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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