

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

Notice of Decision

Decision Date: May 2, 2018

NY State of Health Account ID: Appeal Identification Number: AP000000028605



On April 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 22, 2017 and February 13, 2018 eligibility determination 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.

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

Decision

Decision Date: May 2, 2018

NY State of Health Account ID: Appeal Identification Number: AP000000028605

Issue

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

Did New York State of Health properly determine that you, your spouse and your two oldest children were eligible to purchase a qualified health plan at full cost through NYSOH, and ineligible for advanced payments of the premium tax credit and cost-sharing reductions in the months of January 2018 and February 2018?

Procedural History

On December 21, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On December 22, 2017, NYSOH issued an eligibility determination stating, in part, that you, your spouse and your two oldest children were eligible to purchase a qualifed health plan at full cost through NYSOH, effective February 1, 2018. The notice also stated that you, your spouse and your two oldest children were not eligible for APTC and CSR because either you said you would not be filing a tax return, or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

Also on December 22, 2017, NYSOH issued a plan enrollment notice confirming, in part, your, your spouse and your oldest child's enrollment in a full pay qualified health plan, effective January 1, 2018.

On January 8, 2018, NYSOH received your updated application for financial assistance with health insurance. You also uploaded supporting documentation to your NYSOH account that day.

On January 9, 2018, NYSOH issued an eligibility determination stating, in part, that you, your spouse and your two oldest children were eligible to enroll in a full pay qualifed health plan, effective February 1, 2018. This notice also stated that you, your spouse and your two oldest children were not eligible for APTC and CSR because either you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

Also on January 9, 2018, NYSOH issued a plan enrollment notice confirming, in part, your, your spouse's and your oldest child's enrollment in a full pay qualifed health plan, effective January 1, 2018. This notice further confirmed that your second oldest child was enrolled into your full pay qualifed health plan, effective February 1, 2018.

On January 12, 2018, you uploaded additional supporting documentation to your NYSOH account.

On January 25, 2018, NYSOH received your updated application for financial assistance.

On January 26, 2018, NYSOH issued an eligibility determination stating, in part, that you, your spouse and your two oldest children were eligible to enroll in a full pay qualifed health plan, effective February 1, 2018. This notice also stated that you, your spouse and your two oldest children were not eligible for APTC and CSR because either you said you would not be filing a tax return or were married and filing separately, or you did not file a tax return for an earlier year during which you received APTC.

Also on January 26, 2018, NYSOH issued a plan enrollment notice confirming, in part, your, your spouse's and your two oldest children's enrollment in a full pay qualifed health plan, effective February 1, 2018.

On February 7, 2018, NYSOH received your updated application for financial assistance with health insurance. That day, a preliminary eligibility determination was issued stating, in part, that you, your spouse and your two oldest children were eligible to enroll in a full pay qualifed health plan through NYSOH.

Also on February 7, 2018, you spoke to the NYSOH's Accounts Review Unit and requested an appeal of the preliminary eligibility determination insofar as you, your spouse and your two oldest children were not found eligible for APTC.

On February 8, 2018, NYSOH issued an eligibility determination notice, based on your February 7, 2018 application, stating, in part, that you, your spouse, and your oldest child were eligible to purchase a qualifed health plan at full cost through NYSOH.

On February 12, 2018, NYSOH validated the documentation that was submitted on January 8, 2018 and January 12, 2018, and an updated application for financial assistance was submitted on your family's behalf.

On February 13, 2018, NYSOH issued an eligibility determination notice stating, in part, that you, your spouse and your two oldest children were eligible for up to \$1,257.00 per month in APTC and cost sharing reductions if you enrolled into a silver-level qualifed health plan, effective March 1, 2018.

On March 9, 2018, NYSOH issued a plan enrollment notice confirming, in part, your, your spouse's and your two oldest children's enrollment in a qualifed health plan, effective January 1, 2018, with the maximum amount of APTC applied to your monthly premium, effective March 1, 2018.

On April 9, 2018, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. That day you asked that your hearing be adjourned, which was granted.

On April 23, 2018, you had an adjourned hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the telephone hearing. During the hearing, you testified that you originally filed the appeal because you were seeking to have your family found eligible for financial assistance for the 2018 health insurance year. However, after filing the appeal, the record indicates that you, your spouse and your two oldest children were found eligible for APTC, effective March 1, 2018. Therefore, the Hearing Officer agreed to amend the appeal to review whether NYSOH properly determined that you, your spouse and your two oldest children that you, your spouse and your two oldest children that you, your spouse and your two oldest children were found eligible for a full pay qualifed health plan for the months of January 2018 and February 2018.

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 only appealing your, your spouse and your two oldest children's eligibility for financial assistance with health insurance in the form of APTC for January 2018 and February 2018.

- According to your NYSOH account, you expect to file your 2018 federal income tax return as married filing jointly and you will claim four dependents on that tax return.
- 3) According to your NYSOH account, you received APTC toward the cost of your qualified health plan premium in 2016.
- 4) You testified that you filed your 2016 federal income tax return on time.
- 5) You testified that you used a tax preparer to prepare your 2016 income tax return.
- 6) You testified that, in May 2017, you received a letter from the Internal Revenue Service (IRS) stating that they had received your Form 1040, but that they needed more information from you. You testfied that this information had to do with the reconciliation of your APTC that was received in 2016.
- 7) On January 8, 2018, you uploaded a copy of the transmission IRS letter, a completed copy of Form 8962 and a copy of your Form 1095-A to your NYSOH account (see Document and a copy of your account (see Document and a copy of your account (see Document account (see Do
- 8) The second IRS letter indicates that the IRS directed you to submit a completed Form 9862 and a copy of your Form 1095-A from 2016 to them, but not to submit an amended tax return (see Document and second seco
- 9) You testfied that you were under the impression that your tax preparer had sent this information to the IRS in November 2017, and then again in December 2017.
- 10) You testfied that, after completing this information, you have not heard from the IRS other than when you had contacted them regarding the fact that you, your spouse, and you two oldest children were found ineligible for APTC.
- 11) On January 12, 2018, you uploaded a copy of your Record of Account regarding your 2016 federal tax return from the IRS to your NYSOH account (see Document
- 12) On February 12, 2018, NYSOH validated the documentation that you uploaded to your NYSOH on January 8, 2018 and January 12, 2018, and found it sufficient to determine that you had successfully reconciled the APTC you received in 2016 with the IRS.

- 13) On February 13, 2018, NYSOH issued an eligibility determination that you, your spouse, and your two oldest children were eligible to receive up to \$1,257.00 per month in ATPC, effective March 1, 2018.
- 14)According to your NYSOH account, you, your spouse, and your two oldest children were enrolled into a qualifed health plan with the full amount of APTC applied to your monthly premium, effective March 1, 2018.
- 15) You testified that you are looking for APTC to be retroactively applied to your, your spouse's, and your two oldest children's monthly premium for the months of January 2018 and February 2018.

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

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a QHP and (1) expects to 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 qualified health plan, 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)).

NYSOH may not authorize APTC if APTC was paid on behalf of a tax filer, or the tax filer's spouse in a previous year, and the tax filer (or spouse) failed to reconcile the APTC received in that year (45 CFR § 155.305(f)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individuals whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you, your spouse and your two oldest children were eligible to purchase a QHP at full cost through NYSOH, and not eligible for APTC or cost-sharing reductions for the months of January 2018 and February 2018.

On December 21, 2017, NYSOH received your updated application for health insurance. Based on that application, NYSOH determined that you, your spouse, and your oldest child were not eligible for financial assistance because of one of three possible reasons: you were not planning to file a tax return, you are married and planning to file as single, or you received APTC in a prior year and NYSOH could not determine whether a federal tax return was filed for that year.

Since your applications indicated that you and your spouse plan to file a 2018 federal tax return as married filing jointly and will be claiming your four children as dependents and that you had filed your 2016 federal tax return on time, it must be concluded that NYSOH found you, your spouse and your oldest child ineligible for APTC because NYSOH could not determine whether the APTC that you received in prior years was reconciled on your federal tax return.

If NYSOH is unable to obtain information that a prior year's tax return has been filed and the APTC that you received in that year had been reconciled on that tax return, NYSOH may not determine a tax filer or dependents eligible for APTC, if APTC was paid on that tax filer's behalf in a previous year.

You testified that you filed your 2016 federal tax return on time in 2017. However, you testified that you were contacted by the IRS in May 2017 because the APTC you received for 2016 was not reconciled on your income tax return, and the IRS requested that you submit a copy of you Form 1095-A and a completed Form 8962. You further testfied that you were under the impression that your tax

preparer submitted your completed Form 8962 and Form 1095-A to the IRS sometime in November 2017 and then again in December 2017.

As a result, it is possible that the data sources NYSOH relied on in making its determinations in December 2017 were not yet updated to indicate that you had submitted the information needed by the IRS to successfully reconcile the APTC you received in 2016. However, there is no indication in the record as to when this additional information was sent to the IRS or when the information had been received and processed by the IRS. Therefore, there is insufficient information to prove that the data sources that NYSOH relied upon in making its determinations in December 2017 were inaccurate.

As a result, there is insufficient evidence in the record to disturb NYSOH's eligibility determination stating that you, your spouse and your oldest child were eligible to enroll in a full pay qualifed health plan, effective January 1, 2018.

Therefore, the December 22, 2017 eligibility determination notice is AFFIRMED.

However, on January 8, 2018, you uploaded a copy of the **Leven Sector** IRS letter, a completed copy of 2016 Form 8962 and a copy of your 2016 Form 1095-A to your NYSOH account. Further, on January 12, 2018, you uploaded a copy of your Record of Transcript for the 2016 federal income tax year that you received from the IRS.

On February 12, 2018, NYSOH validated the documentation you submitted and verified that it was sufficient to prove that you had in fact successfully reconciled the APTC that you received in 2016 with the IRS. Subsequently, NYSOH issued an eligibility determination, on February 13, 2018, stating that you, your spouse, and your two oldest children were eligible for up to \$1,257.00 per month in APTC and cost-sharing reductions if you enrolled into a silver-level qualifed health plan, both effective March 1, 2018.

However, you submitted this documentation in early January 2018 and there is no indication in the record that NYSOH reviewed the documentation prior to February 12, 2018. Had NYSOH reviewed the documentation and found it sufficient to resolve the inconsistencies in your account prior to January 31, 2018, you, your spouse, and your two oldest children would have been found eligible for APTC in the month of Februarys 2018.

Therefore, the February 13, 2018 eligibility determination is MODIFIED to reflect that you, your spouse, and your two oldest children were eligible for up to \$1,257.00 per month in APTC and eligible for cost-sharing reductions if you enrolled into a silver-level qualified health plan, effective February 1, 2018.

Your case is RETURNED to NYSOH to retroactively apply APTC in the amount of \$1,257.00 to your household's monthly premium for your qualified health plan as of February 1, 2018.

It is noted that 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.

Since the record indicates that you and your family may have been eligible for a greater amount of APTC then the amount applied to your monthly premium for the month of January 2018, any difference between the advance premium tax credit (based on your expected 2018 income) and the premium tax credit you can claim on your 2018 federal tax return (based on your actual 2018 income) should be reconciled on your 2018 federal tax return; especially, the APTC amount to which you and your family were entitled for the month of January 2018.

Decision

The December 22, 2017 eligibility determination notice is AFFIRMED.

The February 13, 2018 eligibility determination is MODIFIED to reflect that you, your spouse, and your two oldest children were eligible for up to \$1,257.00 per month in APTC and eligible for cost-sharing reductions if you enrolled into a silver-level qualified health plan, effective February 1, 2018, and not March 1, 2018.

Your case is RETURNED to NYSOH to retroactively apply APTC in the amount of \$1,257.00 to your, your spouse's and your two oldest children's monthly premium for your qualified health plan as of February 1, 2018.

Effective Date of this Decision: May 2, 2018

How this Decision Affects Your Eligibility

This does not affect your, your spouse, and your two oldest children's current eligibility.

Based on the record as developed, you, your spouse, and your oldest child were properly found eligible for a full pay qualified health plan for the month of January 2018.

You, your spouse and your two oldest children should have been found eligible for APTC as of February 1, 2018.

Your case is being sent back to NYSOH to retroactively apply \$1,257.00 in APTC to your, your household's monthly premium as of February 1, 2018.

Any discrepancies in the amount of APTC you were entitled to and the amount of APTC applied to your monthly premium throughout the 2018 coverage year will be reconciled and appropriately adjusted when you file your 2018 federal tax return.

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 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 22, 2017 eligibility determination notice is AFFIRMED.

The February 13, 2018 eligibility determination is MODIFIED to reflect that you, your spouse, and your two oldest children were eligible for up to \$1,257.00 per month in APTC and eligible for cost-sharing reductions if you enrolled into a silver-level qualified health plan, effective February 1, 2018, and not March 1, 2018.

Your case is RETURNED to NYSOH to retroactively apply APTC in the amount of \$1,257.00 to your, your spouse's and your two oldest children's monthly premium for your qualified health plan as of February 1, 2018.

This does not affect your, your spouse, and your two oldest children's current eligibility.

Based on the record as developed, you, your spouse, and your oldest child were properly found eligible for a full pay qualified health plan for the month of January 2018.

You, your spouse and your two oldest children should have been found eligible for APTC as of February 1, 2018.

Your case is being sent back to NYSOH to retroactively apply \$1,257.00 in APTC to your, your household's monthly premium as of February 1, 2018. 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). Any discrepancies in the amount of APTC you were entitled to and the amount of APTC applied to your monthly premium throughout the 2018 coverage year will be reconciled and appropriately adjusted when you file your 2018 federal tax return.

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.

<u>中文 (Traditional Chinese)</u>

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.

<u>中文 (Simplified Chinese)</u>

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。我们可以为您免费提供 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.

<u> 한국어 (Korean)</u>

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.

(Arabic)العربية

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 5777-355-355-1. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নখি। 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।

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.

<u>हिंदी (Hindi)</u>

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。

<u>नेपाली (Nepali)</u>

यो एउटा महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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.

<u>Twi (Twi)</u>

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. yEbEtumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

اردو**(Urdu)**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم5777-355-1855 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.