

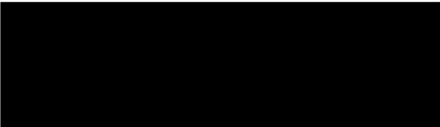


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 15, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029450



Dear [REDACTED]

On April 19, 2018 you appeared by telephone at a hearing on your appeal of NY State of Health's April 18, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: May 15, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029450



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 your eligibility for advance payments of the premium tax credit ended effective April 30, 2018?

Procedural History

On November 27, 2017, you submitted an application for financial assistance to NYSOH.

Also on November 27, 2017, you uploaded income documentation to your NYSOH account.

Additionally, on November 27, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your NYSOH account.

On November 28, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$328.00 per month in advance payments of the premium tax credit (APTC) for a limited time and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan for a limited time, both effective January 1, 2018. This notice directed you to provide documentation of your household income before February 25, 2018 in order to confirm your eligibility for financial assistance.

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Also on November 28, 2017, NYSOH issued a notice confirming your enrollment in qualified health plan with APTC and cost-sharing reductions with a plan enrollment start date of January 1, 2018.

Additionally, on November 28, 2017, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application and that additional income documentation was due by February 25, 2018.

On February 19, 2018, you uploaded income documentation to your NYSOH account.

On February 20, 2018, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your NYSOH account.

On February 21, 2018, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application and that additional income documentation was due by March 12, 2018.

On February 27, 2018, you updated your application for financial assistance. That day, NYSOH prepared a preliminary eligibility determination with regard to that application stating that you were eligible to receive up to \$328.00 per month in APTC for a limited time and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan for a limited time, both effective March 1, 2018

Also on February 27, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as you were found conditionally eligible for APTC and cost-sharing reductions.

On February 28, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$328.00 per month in APTC for a limited time and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan for a limited time, both effective March 1, 2018. The notice directed you to provide documentation of your household income before March 12, 2018 in order to confirm your eligibility for financial assistance.

On March 20, 2018, you uploaded additional income documentation to your NYSOH account.

Also on March 20, 2018, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your NYSOH account.

On March 21, 2018, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application and that additional income documentation was due by April 11, 2018.

On April 18, 2018 NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost, effective May 1, 2018. The notice stated that you were not eligible to receive APTC or cost-sharing reductions, effective April 30, 2018. This was because NYSOH did not receive the income documentation needed to verify the income listed in your application.

Also on April 18, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan with \$0.00 of APTC applied to your premium.

On April 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.

On April 24, 2018, NYSOH issued a notice of eligibility determination stating that you were eligible for APTC and cost-sharing reductions for a limited time, effective May 1, 2018. This was because you had been granted Aid to Continue until a decision was made on your appeal.

Also on April 24, 2018, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a qualified health plan with a plan enrollment start date of January 1, 2018 and that your APTC of up to \$328.00 per month would be applied to your monthly premium as of May 1, 2018.

Findings of Fact

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

- 1) You testified that you believe that you have submitted sufficient proof of your household income and therefore you should not have lost your APTC as of May 1, 2018.
- 2) In the application you submitted on November 27, 2017 and February 27, 2018, you indicated that your only sources of income were [REDACTED] and [REDACTED]
- 3) On November 27, 2017, you uploaded three invoices to your NYSOH account, the first is dated September 13, 2017 ([REDACTED]) the second is dated September 14, 2017 ([REDACTED]) and the third is dated November 9, 2017 ([REDACTED])

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- 4) On November 27, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account because the required documentation was detailed business records for the past 3 months or a signed and dated 1040 from the previous tax year.
- 5) On February 19, 2018 you uploaded additional income documentation to your NYSOH account consisting of:
 - a. A spreadsheet of your income from September 2017, October 2017, and November 2017 from [REDACTED] and [REDACTED]
 - b. Three of your bank statements from September 2017 [REDACTED] October 2017 [REDACTED] and November 2017 [REDACTED]
 - c. Six invoices for dates September 13, 2017 [REDACTED] September 21, 2017 [REDACTED] September 26, 2017 [REDACTED] October 27, 2017 [REDACTED] November 15, 2017 [REDACTED] and November 29, 2017 [REDACTED]
- 6) On February 20, 2018, NYSOH reviewed the income documentation you submitted and determined that this was insufficient proof of income as bank statements and invoices are not considered sufficient documentation of self-employment income.
- 7) On March 20, 2018, you uploaded additional income documentation to your NYSOH account consisting of:
 - a. A spreadsheet of your business income and business expenses from December 2017, January 2018, and February 2018 from [REDACTED] and [REDACTED]
 - b. Three of your bank statements from December 2017 [REDACTED] January 2018 [REDACTED] and February 2018 [REDACTED]
- 8) Also on March 20, 2018, NYSOH reviewed the income documentation you submitted and determined that this was insufficient proof of income as you had submitted bank statements and out dated paystubs, and the required documentation was a signed and dated 1040 tax return.
- 9) You testified that your 2016 tax return would not be an accurate statement of your annual expected income for 2018. You testified that in 2016 you were working for an employer, but were laid off.

- 10) You testified that in 2017 you started two business, [REDACTED] and [REDACTED] and that these two businesses are currently your only source of income.
- 11) You testified that the spreadsheet you submitted on March 20, 2018 was an accurate representation of your business income and expenses for December 2017, January 2018, and February 2018.
- 12) You testified that as of the date of the hearing, you had not yet filed your 2017 tax return.
- 13) On May 7, 2018, you uploaded your 2017 tax return to your NYSOH account ([REDACTED]). This return lists income of \$145.00 for taxable income, \$17.00 for ordinary dividends, qualified dividends of \$17.00, \$976.00 for taxable refunds, business income of \$782.00, and Schedule E income of \$36,931.00, less deductions of \$2,665.00 for the deductible part of the self-employment tax.
- 14) You testified that you will file your 2018 tax return as single and you will not claim any dependents on that tax return.
- 15) Your application states that you reside in Kings County.

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 qualified health plan 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)).

An applicant is required to attest to their household's projected annual income for purposes of determining their 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 in order 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 in order 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 your eligibility for APTC ended effective April 30, 2018.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to their household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

You submitted an application to NYSOH on November 27, 2017. That same day, you uploaded income documentation to your NYSOH account consisting of invoices from your business.

Also on November 27, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account as a signed and dated 1040 or proof of three months of business records was required to confirm your income.

In the eligibility determination issued on November 28, 2017, you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before February 25, 2018.

In the insufficient documentation notice issued on November 28, 2017, you were advised that you needed to submit additional income documentation by February 25, 2018.

On February 20, 2018, you uploaded income documentation to your NYSOH account consisting of your bank statements from September 2017, October 2017, and December 2017, your business income from your two businesses September 2017, October 2017, and December 2017, and invoices from September 2017 and November 2017.

On February 20, 2018, NYSOH reviewed the income documentation you submitted and determined that this was insufficient proof of income as bank statements and invoices are not considered sufficient documentation of self-employment income.

The documentation submitted on February 20, 2018 failed to include your business expenses and was outdated at the time of submission. Therefore, NYSOH properly invalidated this documentation.

In the insufficient documentation notice issued on February 21, 2018 you were advised that you needed to submit additional income documentation by March 12, 2018.

On February 27, 2018, you updated your application for financial assistance.

In the eligibility determination issued on February 28, 2018, you were advised that you were advised that your eligibility for APTC was only conditional, and that you needed to confirm your household's income before March 12, 2018.

On March 20, 2018, you uploaded income documentation to your NYSOH account consisting of a spreadsheet of your business income and expenses for December 2017, January 2018, and February 2018, as well as your bank statements for those same three months.

Also on March 20, 2018, NYSOH reviewed the income documentation you submitted and determined that this was insufficient proof of income as you had submitted bank statements and out dated paystubs, and the required documentation was a signed and dated 1040 tax return.

However, in the November 27, 2017 and February 27, 2018 applications, you indicated that your income was derived from your business of [REDACTED] and [REDACTED]. You provided documentation of your business income

and business expenses for the three months prior to the March 20, 2018 submission.

As you submitted documentation of your self-employment income from the three months immediately preceding the submission, NYSOH improperly invalidated this documentation.

As NYSOH improperly invalidated the income documentation you submitted on March 20, 2018, the April 18, 2018 eligibility determination notice stating that you are no longer eligible for APTC because you failed to submit income documentation is **RESCINDED**.

You have since submitted additional income documentation, therefore, your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance based on a household of one residing in Kings County with an annual expected income of \$36,203.00.

Decision

The April 18, 2018 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance based on a household of one residing in Kings County with an annual expected income of \$36,203.00.

Effective Date of this Decision: May 15, 2018

How this Decision Affects Your Eligibility

NYSOH erred in terminating your APTC effective April 30, 2018, as you had submitted sufficient documentation of your income.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance based on the additional income documentation you submitted.

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.

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).

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

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 April 18, 2018 eligibility determination notice is RESCINDED.

NYSOH erred in terminating your APTC effective April 30, 2018, as you had submitted sufficient documentation of your income.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance based on the additional income documentation you submitted.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on a household of one residing in Kings County with an annual expected income of \$36,203.00.

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।

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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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