



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

### **Notice of Decision**

Decision Date: May 23, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000030502



Dear [REDACTED],

On May 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 13, 2018 eligibility determination and plan enrollment 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 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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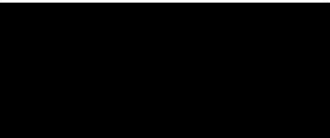


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: May 23, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000030502



## 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 (APTC) ended effective February 28, 2018?

## Procedural History

On November 9, 2017, NYSOH issued an eligibility determination notice, based on your November 8, 2017 application, stating in part that you were eligible to receive up to \$328.00 in APTC and to receive cost-sharing reductions if you enrolled in a silver-level qualified health plan (QHP), for a limited time effective January 1, 2018. The notice directed you to provide documentation regarding your household income before February 6, 2018, so that your eligibility could be confirmed.

On December 6, 2017, you submitted four weekly paystubs, dated November 2, 2017 through November 30, 2017 (see Document [REDACTED]). These documents were invalidated by NYSOH as insufficient on December 7, 2017, because the paystubs were not consecutive insofar as your November 9, 2017 paystub was missing.

On December 8, 2017, a plan enrollment notice was issued confirming in part your selection of a silver-level QHP with a monthly premium of \$181.94 after your monthly APTC of \$328.00 was applied as of January 1, 2018.

Also on December 8, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice directed you to provide additional documentation confirming your household income before February 6, 2018.

On December 13, 2017, you faxed four current consecutive weekly paystubs, dated November 16, 2017 through December 7, 2017 (see Document [REDACTED]). These documents were invalidated by NYSOH as insufficient that same day because the paystubs were "illegible."

On December 14, 2017, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice directed you to provide additional documentation confirming your household income before February 6, 2018.

No further documentation was received.

On February 13, 2018, NYSOH issued an eligibility determination notice stating that you were newly eligible to purchase a QHP at full cost, effective March 1, 2018. The notice stated that you did not qualify for APTC and cost-sharing reductions as of February 28, 2018, because you did not provide the income documentation needed to confirm your eligibility by the due date.

Also on February 13, 2018, a plan enrollment notice was issued confirming in part your enrollment in a silver-level QHP at the full monthly premium amount of \$509.94, reflecting that your APTC of \$328.00 had not been applied.

On March 20, 2018, NYSOH issued an eligibility determination notice, based on your March 19, 2018 updated application, stating in part that you were eligible to receive up to \$325.00 in APTC and to receive cost-sharing reductions if you enrolled in a silver-level QHP, effective May 1, 2018.

Also on March 20, 2018, a plan enrollment notice was issued confirming in part your selection of a silver-level QHP with a monthly premium of \$184.94 after your monthly APTC of \$325.00 was applied, effective May 1, 2018.

Also on March 20, 2018, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your APTC was terminated for the months of March 2018 and April 2018.

On May 17, 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 supports the following findings of fact:

- 1) The application that was submitted on December 7, 2017, listed annual household income of \$28,500.00 in earnings from your employment.
- 2) On December 6, 2017, you submitted four weekly paystubs, dated November 2, 2017 through November 30, 2017 (see Document [REDACTED]).
- 3) According to your NYSOH account, your documents were invalidated on December 7, 2017, because a paystub from November 9, 2017 had not been submitted and your income could not be calculated.
- 4) According to your November 30, 2017 paystub, your year-to-date gross earnings were \$30,560.27 ([REDACTED]).
- 5) No further documentation was received by NYSOH to confirm your eligibility after your December 13, 2017 documents were determined to be illegible as submitted.
- 6) According to your NYSOH account, on February 12, 2018, NYSOH systematically redetermined your eligibility and you were found ineligible for financial assistance as of February 28, 2018, because "NYSOH did not receive the income documentation needed to verify the income listed in eligibility determination notice.
- 7) Also on February 13, 2018, a plan enrollment notice was issued confirming in part your enrollment in a silver-level QHP at the full monthly premium amount of \$509.94, reflecting that monthly APTC of \$328.00 would no longer be applied.
- 8) According to your NYSOH account, you updated your account on March 19, 2018, and you were found eligible for APTC of up to \$325.00, effective May 1, 2018, based on a projected 2018 annual income of \$33,592.00. No further documentation was requested.
- 9) You testified that although you are satisfied with the current amount of APTC, this resulted in a gap in financial assistance for the months of March 2018 and April 2018.
- 10) You testified that you want your APTC to be applied to March 2018 and April 2018, because the health plan required you to pay the full premium for those months to maintain your coverage. You would like

the health plan to credit your account moving forward for the premiums you paid.

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 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)).

## End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the 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).

## **Legal Analysis**

Initially, it is noted that you were found eligible to receive up to \$328.00 per month in APTC as of January 1, 2018, based on your November 8, 2017 application. The amount of APTC is not in dispute.

The issue under review is whether NYSOH properly determined that your eligibility for APTC ended as of February 28, 2018.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation.

On November 9, 2017, NYSOH issued an eligibility determination notice, based on the information contained in your November 8, 2017 application, stating that you were conditionally eligible to receive APTC in the amount of \$328.00 per month, effective January 1, 2018. The notice instructed you must provide proof of income before February 6, 2018, to confirm your eligibility.

The record reflects that, on December 6, 2017 and December 13, 2017, you submitted proof of income, which was invalidated by NYSOH on December 7, 2017 and December 13, 2017, respectively, because the first set of paystubs were not consecutive and the second set of paystubs were "illegible." Because no further documents were received before the due date of February 6, 2018, NYSOH redetermined your eligibility on February 12, 2018. Since no validated income information was available, your eligibility for financial assistance was terminated.

On February 13, 2018, NYSOH issued an eligibility determination notice stating that you were no longer eligible for APTC as of February 28, 2018. That same day, a plan enrollment notice was issued confirming in part your enrollment in a

silver-level QHP at the full monthly premium amount of \$509.94, reflecting that your monthly APTC of \$328.00 would no longer be applied.

However, and although the record shows that you did fail to submit your November 9, 2017 paystub, your November 30, 2017 paystub included your year-to-date gross income. Therefore, the income documentation you submitted was sufficient to ascertain your expected gross annual income for eligibility purposes. Your income could have been calculated by dividing your year-to-date gross income of \$30,560.27 as of the November 30, 2017 paystub by 11 months, which equals an average monthly income of \$2,778.21, and multiplying that amount by 12 months, for a projected annual income of \$33,338.52.

Therefore, it is concluded that NYSOH improperly invalidated your proof of income as of December 7, 2017, such that your application was complete as of that day, your income could have been validated, and your eligibility to receive APTC could have been confirmed.

Since NYSOH erred in not validating your income and you should have been found fully eligible for APTC as of December 7, 2017, the February 13, 2018 eligibility determination and plan enrollment notices, which are incorrectly based on your failure to provide sufficient income documentation, must be **RESCINDED**.

NYSOH is directed to reinstate your APTC as of March 1, 2018.

Your case is **RETURNED** to NYSOH to apply your monthly APTC of \$328.00 to your premiums for March 2018 and April 2018, and to notify you accordingly. Since the March 20, 2018 eligibility determination notice stated that you were eligible for APTC of \$325.00 based on an annual household income for 2018 of \$33,592.00, effective May 1, 2018, those findings and corresponding notices will not be disturbed by this Decision.

Lastly, your income documentation shows that you could have certain deductions in 2018 that may not have been considered in determining your eligibility for APTC. 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, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability.



## **Decision**

The February 13, 2018 eligibility determination and plan enrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to apply your monthly APTC of \$328.00 to your premiums for March 2018 and April 2018, and to notify you accordingly.

The March 20, 2018 eligibility determination notice stating that you were eligible for APTC of \$325.00, based on an annual household income for 2018 of \$33,592.00, effective May 1, 2018, will not be disturbed by this Decision.

**Effective Date of this Decision:** May 23, 2018

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

You submitted sufficient income documentation for your household as of December 6, 2017. Had your household's eligibility been properly redetermined on December 7, 2017, your APTC would not have been terminated as of February 28, 2018.

Your case is being sent back to NYSOH to apply your monthly APTC of \$328.00 toward the March 2018 and April 2018 monthly premiums. NYSOH will notify you once this has been done.

This Decision does not affect any subsequent eligibility determination or plan enrollment notices issued by NYSOH.

## **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 13, 2018 eligibility determination and plan enrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to apply your monthly APTC of \$328.00 to your premiums for March 2018 and April 2018, and to notify you accordingly.

The March 20, 2018 eligibility determination notice stating that you were eligible for APTC of \$325.00, based on an annual household income for 2018 of \$33,592.00, effective May 1, 2018, will not be disturbed by this Decision.

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 submitted sufficient income documentation for your household as of December 6, 2017. Had your household's eligibility been properly redetermined on December 7, 2017, your APTC would not have been terminated as of February 28, 2018.

Your case is being sent back to NYSOH to apply your monthly APTC of \$328.00 toward the March 2018 and April 2018 monthly premiums. NYSOH will notify you once this has been done.

This Decision does not affect any subsequent eligibility determination or plan enrollment notices issued by NYSOH.

### **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 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.

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).