



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

Notice of Decision

Decision Date: May 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005300

[REDACTED]

Dear [REDACTED],

On January 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 2015 notice of eligibility determination.

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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005300

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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly include your husband's income when making a determination on your eligibility for financial assistance?

Did NYSOH properly determine that you were not eligible to receive advance payments of the premium tax credit, effective January 1, 2016?

Did NYSOH properly determine that you were not eligible for cost-sharing reductions?

Procedural History

On November 16, 2015, NYSOH received your updated application for financial assistance with your health insurance and prepared a preliminary determination stating that you were eligible to purchase a qualified health plan at full cost.

On November 20, 2015, you contacted NYSOH's Account Review Unit. You appealed the inclusion of your husband's income when calculating your eligibility for financial assistance through NYSOH.

On November 22, 2015 and November 23, 2015, NYSOH issued eligibility determination notices, stating that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2016.

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On January 28, 2016, 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) You testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You reside in a two-person household.
- 3) You are seeking insurance for yourself.
- 4) The application that was submitted on November 16, 2015 listed annual household income of \$167,840.00 consisting of \$26,840.00 you earn from your employment and \$141,000.00 your spouse earns. You testified that this amount was correct.
- 5) Your application states that you will not be taking any deductions on your 2015 tax return.
- 6) You testified that you do not want your husband's income included in the eligibility calculation as you are only seeking insurance for yourself.
- 7) Your application states that you live in New York County.

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable 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 QHP, 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)).

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In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Household Income

NYSOH bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

With regard to eligibility for financial assistance through NYSOH, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse (42 CFR § 435.603 (f)(4)).

Legal Analysis

The first issue is whether NYSOH properly included your husband's income when making a determination on your eligibility for financial assistance.

In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return, or whether one spouse expects to be claimed as a tax dependent by the other spouse.

Therefore, NYSOH properly included your spouse's income when determining your eligibility for financial assistance.

The second issue is whether NYSOH properly determined that were not eligible for APTC.

The application that was submitted on November 16, 2015, listed an annual household income of \$167,840.00, which included your husband's income, and the eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2016 income taxes as married filing jointly and will claim no dependents on that tax return.

You reside in New York County, where the second lowest cost silver plan available for an individual through NYSOH costs \$350.97 per month.

An annual income of \$167,840.00 is 1053.61% of the 2015 FPL for a two-person household.

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable poverty level (FPL). At 1053.61% of the 2015 FPL for a two-person household you are over the limitations provided by statute for APTC which is 400%.

Therefore, NYSOH correctly determined you not eligible to receive APTC.

The second issue is whether you were properly found ineligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$167,840.00 is 1053.61 % of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

Since the November 20, 2015, eligibility determination properly stated that, based on the information you provided, you were not eligible for APTC and ineligible for cost-sharing reductions, it is correct and is AFFIRMED.

Decision

The November 20, 2015, eligibility determination notice is AFFIRMED.

Effective Date of this Decision: May 4, 2016

How this Decision Affects Your Eligibility

You remain ineligible for APTC.

You are not eligible for cost-sharing reductions.

You are eligible to purchase a qualified health plan at full cost through NY State of Health effective January 1, 2016.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 U.S. Department of Health and Human Services. 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 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
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Summary

The November 20, 2015, eligibility determination notice is AFFIRMED.

You remain ineligible for APTC.

You are not eligible for cost-sharing reductions.

You are eligible to purchase a qualified health plan at full cost through NY State of Health effective January 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

