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

Notice of Decision

Decision Date: April 27, 2016

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000005447

[redacted]

Dear [redacted],

On March 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 8, 2015 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 27, 2016

NY State of Health Account ID: [redacted]
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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 determine that you were eligible to receive up to $42.00 per month in 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 December 7, 2015, NYSOH received your completed application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were temporarily eligible to receive an advance premium tax credit (APTC) of up to $42.00 per month, effective January 1, 2016. The preliminary eligibility determination further stated that in order for your eligibility to be finalized you must submit documents to confirm that the information you provided in your application was accurate.

Also on December 7, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were found eligible for an APTC no greater than $42.00 per month for 2016.

On December 8, 2015, NYSOH issued an eligibility determination notice based on your December 7, 2015 application, stating that you were conditionally eligible to receive up to $42.00 per month in APTC and not eligible for CSR because

your household income of $42,600.00 was over the allowable income limit for that program. The notice requested that you provide income documentation before March 6, 2016 in order to confirm your eligibility.

Also on December 8, 2015, NYSOH issued a notice confirming your enrollment in Fidelis Care Silver ST INN Pediatric Dental Dep25 as of December 7, 2015. The notice further stated that your plan enrollment start date was January 1, 2016.

On December 18, 2015, NYSOH issued a cancellation notice confirming your request to cancel your insurance coverage with Fidelis Care Silver ST INN Pediatric Dental Dep25 on December 7, 2015. This meant that you would not have coverage under this plan effective January 1, 2016.

On February 12, 2016, NYSOH received a letter from you, dated February 3, 2016, stating, in relevant part, that you experienced difficulty in appealing the eligibility determination notice regarding your tax credit, and that you had not received a bill from Fidelis to pay for your health insurance and you did not have any such insurance as of January 2016.

On March 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your legal counsel, [redacted], also attended the hearing. 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 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.

2) You are seeking insurance only for yourself.

3) The application that was submitted on December 7, 2015 listed annual household income of $42,600.00, consisting of $3,550.00 per month you earned from your self-employment. You clarified during the hearing that this approximate amount was derived from two sources: your income received from your self-employment and the rental income you had anticipated when you submitted your application. You further testified that this rental income was never realized since zoning issues ultimately prevented you from accepting a tenant.

4) You testified that when you submitted your December 7, 2015 application you were anticipating approximately $1,000.00 per month of income from the rental property.

5) You testified that your anticipated gross income is now approximately $2,200.00 per month. You further testified that you earn $20.00 per hour and typically work 20 to 25 hours per week, which you anticipate will remain consistent throughout 2016.

6) Your application states that you did not anticipate taking any deductions on your 2016 tax return.

7) You live in Suffolk County, New York.

8) Your legal counsel stated that due to your overall expenses, which include your mortgage, utilities, and food, your remaining income is insufficient to afford a premium payment through NYSOH greater than what you were paying during 2014 and 2015. You stated that your premium during those prior years was approximately $63.79 after having been found eligible for an APTC of up to $319.43 per month.

9) You testified that you are now without insurance since you allowed your plan to be cancelled effective January 1, 2016, due to the expense of the plan after having been found eligible for a greatly reduced tax credit.

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 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 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)).

The maximum amount of APTC that can be authorized equals:

1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

2) the taxpayer's expected contribution amount

(*see* 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2016 is set by federal law at 2.03% to 9.66% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

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 $11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

For annual household income in the range of at least 300% but less than 400% of the 2015 FPL, the expected contribution is 9.66% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

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)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to $42.00 per month.

The application that was submitted on December 7, 2015 listed an annual household income of $42,600.00, and the eligibility determination relied upon that information.

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

You reside in Suffolk County, where the second lowest cost silver plan available for an individual through NYSOH costs $385.23 per month.

An annual income of $42,600.00 is 361.94% of the 2015 FPL for a one-person household. At 361.94% of the FPL, the expected contribution to the cost of the health insurance premium is 9.66% of income, or $342.93 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county ($385.23 per month) minus your expected contribution ($342.93 per month), which equals $42.30 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to $42.00 per month in APTC.

The second issue is whether you were properly found ineligible for CSR.

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of $42,600.00 is 361.94% of the applicable FPL, NYSOH correctly found you to be ineligible for CSR.

Since the December 8, 2015 eligibility determination notice properly stated that, based on the information you provided, you were eligible for up to $42.00 per month in APTC and ineligible for CSR, it is correct and is AFFIRMED.

You credibly testified during the hearing that your anticipated income for 2016 is lower now, because the expected $1,000.00 per month in income from your rental property never materialized. Additionally, you testified that you actually expect to receive on $2,200.00 per month in income from your self-employment. Therefore, based on these two statements, your expected annual income for 2016 would $26,400.00 ($2,200.00 per month times 12).

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on an annual household income of $26,400.00 for a one-person household in Suffolk County. Furthermore, since the open enrollment period has now elapsed, NYSOH will also determine your eligibility for a special enrollment period to enroll in a plan for the remainder of the 2016 plan year.

Decision

The December 8, 2015 eligibility determination notice is AFFIRMED.

However, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on an annual household income of $26,400.00 for a one-person household in Suffolk County.

Effective Date of this Decision: April 27, 2016

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to $42.00 per month.

You are ineligible for cost-sharing reductions.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on an annual household income of $26,400.00 for a one-person household in Suffolk County.

NYSOH will issue a new eligibility determination notice stating your revised eligibility for financial assistance and your eligibility for a special enrollment period to enroll in a plan for the remainder of the 2016 plan year.

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
- By mail at:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 8, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for an advance premium tax credit of up to $42.00 per month.

You are ineligible for cost-sharing reductions.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on an annual household income of $26,400.00 for a one-person household in Suffolk County.

NYSOH will issue a new eligibility determination notice stating your revised eligibility for financial assistance and your eligibility for a special enrollment period to enroll in a plan for the remainder of the 2016 plan year.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

[redacted]

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).