



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: AP000000005455

[REDACTED]

Dear [REDACTED],

On April 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 9, 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 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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Issues

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

Did NY State of Health properly determine that you were not eligible for advance payments of the premium tax credit or cost-sharing reductions, effective January 1, 2016?

Procedural History

On December 8, 2015, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in a qualified health plan at full cost.

On December 8, 2015, you contacted the NYSOH Account Review Unit and requested an appeal of that preliminary eligibility determination notice insofar as you were not found eligible for financial assistance.

On December 9, 2015, an eligibility determination notice was issued based on your December 8, 2015 application, stating that you were eligible to purchase a qualified health plan at full cost effective January 1, 2016. You were not eligible to receive advance payments of the premium tax credit (APTC) because your application states the primary tax filers in your house are married but not filing jointly. You were further found ineligible for cost-sharing reductions because you were found ineligible to receive advance premium tax credits.

On April 1, 2016, you had a telephone hearing with a Hearing Officer from the NYSOH Appeals Unit. The record was developed during the hearing and kept

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open for 15 days to allow you the opportunity to provide documentation demonstrating a final decree of divorce from your spouse. You uploaded a copy of your summons and complaint filed in the Supreme Court of Nassau County on April 6, 2016 (Appellant's Exhibit 1).

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 for yourself.
- 3) You testified that you are currently married.
- 4) You testified that you are currently separated from your spouse and have not had a final decree of divorce issued from a judge.
- 5) You testified that you do not reside with your spouse.
- 6) You testified that you are seeking to be found eligible for financial assistance with your qualified health plan premium responsibility.
- 7) Your application states that you live in Nassau 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 the Premium Tax Credit

APTC is 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)).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

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However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
 - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
 - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

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 issue is whether NYSOH properly determined that you are not eligible for APTC and cost-sharing reductions.

In the eligibility determination notice issued on December 9, 2015, NYSOH denied an APTC to you because you indicated that you were married but did not plan to file a joint federal income tax return.

To qualify for APTC, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the information in the record and your testimony at the hearing, you are still married to your spouse and have not obtained a decree of divorce or of

separate maintenance. Also, you confirmed that you do not plan to file a joint federal income tax return with your spouse for the 2016 tax year.

There is an exception, as noted above, that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for APTC. However, the record does not support a finding that you meet the necessary requirements for that exception.

Therefore, NYSOH was correct when it found that you were not eligible for APTC due to your tax filing status.

Cost-sharing reductions are available only to those who meet the requirements for APTC. Since you did not qualify for APTC, NYSOH correctly found that you were not eligible for cost-sharing reductions.

Since NYSOH correctly determined that you are not eligible for APTC or cost-sharing reductions, the December 9, 2015 notice of eligibility determination is **AFFIRMED**.

Decision

The December 9, 2015, eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: April 27, 2016

How this Decision Affects Your Eligibility

You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

You remain ineligible for an APTC because you are married but not filing your 2016 federal income tax return jointly.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

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.

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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 after 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 9, 2015, eligibility determination notice is **AFFIRMED**.

You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

You remain ineligible for an APTC because you are married but not filing your 2016 federal income tax return jointly.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

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Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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A Copy of this Decision Has Been Provided To:

