



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

Notice of Decision

Decision Date: April 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005556

[REDACTED]

Dear [REDACTED],

On February 25, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 16, 2015 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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Issues

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

Did New York State of Health (NYSOH) properly determine that you were eligible to receive up to \$216.00 per month in advance payments of the premium tax credit, effective January 1, 2016?

Did NYSOH properly determine that you were eligible for cost-sharing reductions, effective January 1, 2016?

Did NYSOH determine that you were eligible for the appropriate level of cost-sharing reductions, effective January 1, 2016?

Procedural History

On December 14, 2015, you updated the information in your NYSOH account several times. That day, a preliminary eligibility determination was prepared with regard to the last application, stating that you were eligible to receive up to \$216.00 per month in advance payments of the premiums tax credit (APTC), as well as for cost-sharing reductions (CSR) with a maximum out-of-pocket expenditure of \$4000.00 per year for a single person, effective January 1, 2016.

Also on December 15, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to the amount of financial assistance you were determined eligible for.

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On December 16, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 14, 2015 application, stating that you were eligible for APTC of up to \$216.00 per month and eligible for cost-sharing reductions (CSR), effective January 1, 2016.

On December 16, 2015, NYSOH issued an enrollment confirmation notice, confirming your enrollment in a silver level individual qualified health plan (QHP), effective January 1, 2016.

On February 25, 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 2016 taxes with a tax filing status of single. The record reflects that you will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on December 14, 2015 listed expected annual household income of \$27,040.00. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return. You testified that this is correct.
- 5) You testified that you wish to continue with the QHP that you were enrolled in last year because you want to keep your doctors.
- 6) You testified that the deductible has increased from \$250 per year to \$1250 per year for the same QHP you had last year. You feel this is not affordable.
- 7) Your application states that you live in Orange 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 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 for a one-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 200% but less than 250% of the 2015 FPL, the expected contribution is between 6.41% and 8.18 % 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).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may

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get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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)).

Levels of Cost-Sharing Reductions

NYSOH directs insurers to offer three variations of silver-level qualified health plans, in addition to a full-cost plan, which provide varying levels of financial assistance, called “cost-sharing reductions,” using the following categories:

(1) Those individuals with an annual household income that is at least 100% but less than or equal to 150 % of the federal poverty level (FPL),

(2) Those individuals with an annual household income that is greater than 150% but less than or equal to 200% of the FPL, and

(3) Those individuals with an annual household income that is greater than 200 but less than or equal to 250% of the FPL (see 45 CFR § 155.305(g)(2)).

(The categories for policies that cover more than one person are slightly different (45 CFR § 155.305(g)(3)), but those categories are not relevant in the current case).

Each category listed above gives a different level of CSR, so that you would receive different amounts of financial assistance based on the level of your income (see 45 CFR § 156.420). These subsidies reduce the deductibles, copayments, coinsurance, and other out-of-pocket expenses that people eligible for CSR pay when they use benefits covered by their health plan.

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for an APTC of up to \$216.00 per month, effective January 1, 2016.

The application that was submitted on December 14, 2015 listed an annual household income of \$27,040.00, and the eligibility determination relied upon that information. You testified that this amount is correct.

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 Orange County, where the second lowest cost silver plan available for an individual through NYSOH costs \$384.49 per month.

An annual income of \$27,040.00 is 229.74% of the 2015 FPL for a one-person household. At 229.74% of the FPL, the expected contribution to the cost of the health insurance premium is 7.46% of income, or \$168.10 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 (\$384.49 per month) minus your expected contribution (\$168.10 per month), which equals \$216.39 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$216.00 per month in APTC, and the

The second issue under review is whether you were properly found eligible for cost-sharing reductions, effective January 1, 2016.

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 \$27,040.00 is 229.74% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The third issue under review is whether you were found eligible for the appropriate level of CSR.

A household with income of at least 200% but less than 250% of the FPL is eligible for the third level of CSR. Since your annual household income of \$27,040.00 is 229.74% of the 2015 FPL for a one-person household, and you were enrolled in an individual silver-level QHP, you should qualify for the third level of CSR, as explained above. It appears from your account that you were found eligible for the second level of CSR for 2015; that is, because of your increase in earnings, your eligibility for CSR dropped to a less advantageous category.

The Appeals Unit cannot determine by the information available in your NYSOH account whether your plan does in fact qualify under the third level of CSR. Therefore, this matter is returned to NYSOH to confirm that your plan complies with the requirements for this level of CSR eligibility

Therefore, the December 16, 2015 notice of eligibility determination is AFFIRMED, insofar as it stated you were eligible for APTC of up to \$216.00 per month and eligible for CSR, effective January 1, 2016, and MODIFIED to reflect that you were eligible for the third level of CSR.

Decision

The December 16, 2015 eligibility determination notice is AFFIRMED insofar as you were eligible for up to \$216.00 per month in APTC, effective January 1, 2016.

The December 16, 2015 eligibility determination notice is AFFIRMED insofar as you were eligible for CSR, effective January 1, 2016.

The December 16, 2015 eligibility determination notice is MODIFIED to state that you were eligible for the third level of CSR, effective January 1, 2016.

Your case is RETURNED to NYSOH to confirm that your QHP complies with the requirements for the third level of CSR eligibility.

Effective Date of this Decision: April 15, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$216.00 in APTC.

You remain eligible for CSR.

You are eligible for the third level of CSR, based on your household income of \$27,040.00, which is 229.74% of the 2015 FPL for a household of one.

NYSOH will determine whether your QHP complies with the requirements for a QHP at the third level of CSR.

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

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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 16, 2015 eligibility determination notice is AFFIRMED insofar as you were eligible for up to \$216.00 per month in APTC, effective January 1, 2016.

The December 16, 2015 eligibility determination notice is AFFIRMED insofar as you were eligible for CSR, effective January 1, 2016.

The December 16, 2015 eligibility determination notice is MODIFIED to state that you were eligible for the third level of CSR, effective January 1, 2016.

Your case is RETURNED to NYSOH to confirm that your QHP complies with the requirements for the third level of CSR eligibility.

You remain eligible for up to \$216.00 in APTC.

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You remain eligible for CSR.

You are eligible for the third level of CSR, based on your household income of \$27,040.00, which is 229.74% of the 2015 FPL for a household of one.

NYSOH will determine whether your QHP complies with the requirements for a QHP at the third level of CSR.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

