



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

Notice of Decision

Decision Date: April 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005802

[REDACTED]

Dear [REDACTED],

On April 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 29, 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 number 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

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005802



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 \$217.00 per month in advance payments of the premium tax credit, effective February 1, 2016?

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

Did NYSOH properly determine that you were not eligible for Medicaid?

Procedural History

On December 28, 2015, NYSOH received two completed applications for health insurance. That day, a preliminary eligibility determination was prepared with regard to the last application, stating that you were eligible for an advance premium tax credit (APTC) of up to \$217.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). It did not make a determination on your eligibility for Medicaid. This eligibility determination was effective February 1, 2016.

Also on December 28, 2015, you contacted the NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not found eligible for Medicaid.

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On December 29, 2015, NYSOH issued an eligibility determination notice based on the information contained in the last application received on December 28, 2015 application, stating that you were eligible for an APTC of up to \$217.00 per month; eligible for CSR, provided you selected a silver-level plan; and, not eligible for Medicaid. This eligibility determination was effective February 1, 2016.

On April 14, 2016, you had a telephone hearing with a Hearing Officer from the 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 expect 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 only yourself.
- 3) The application that was submitted on December 28, 2015 listed annual household income of \$25,740.00, consisting solely of income you expect to receive from your employment with [REDACTED]. You testified that this amount was correct.
- 4) You testified that your weekly income during December 2015 was \$572.00, and that you received at least 4 such payments during that month.
- 5) Your application states that you will not be taking any deductions on your 2016 tax return.
- 6) You live in Richmond County, New York.
- 7) You testified that you were seeking to continue the Medicaid plan you had been enrolled in previously since the health plans available through NYSOH are unaffordable to you at this time.

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

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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 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).

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)).

Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2016 FPL, which is \$11,880 for a one-person household (81 Fed. Reg. 4036).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$217.00 per month.

The application that was submitted on December 28, 2015 listed an annual household income of \$25,740.00 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 Richmond County, where the second lowest cost silver plan available for an individual through NYSOH costs \$368.26 per month.

An annual income of \$25,740.00 is 218.69% of the 2015 FPL for a one-person household. At 218.69% of the FPL, the expected contribution to the cost of the health insurance premium is 7.07% of income, or \$151.69 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

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county (\$368.26 per month) minus your expected contribution (\$151.69 per month), which equals \$216.57 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$217.00 per month in APTC.

The second issue is whether you were properly found eligible 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 \$25,740.00 is 218.69% of the applicable FPL, NYSOH correctly found you to be eligible for CSR.

The third issue is whether NYSOH properly determined that you were not eligible for Medicaid.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,880.00 for a one-person household. Since \$25,740.00 is 216.67% of the 2016 FPL, NYSOH properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You credibly testified that you received at least 4 earning statements during December 2015, each reflecting that you earned \$572.00 in gross wages.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,366.00 per month. Since the documentation you provided shows that you earned at least \$2,288.00 in December 2015 you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the December 29, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$217.00 per month in APTC, eligible for CSR, and ineligible for Medicaid, it is correct and is **AFFIRMED**.

Since your Medicaid remained in effect during the pendency of the appeal through Aid to Continue, the Appeals Unit on its own authority awards you a special enrollment period (SEP) to select a qualified health plan. You will have 60 days from the Decision Date in which to select such a plan. Accordingly, your case is **RETURNED** to NYSOH to award you an SEP.

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Decision

The December 29, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to award you a special enrollment period in order to permit you 60 days to select a qualified health plan.

Effective Date of this Decision: April 20, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$217.00 per month in APTC and, if you select a silver-level plan, CSR.

You are not eligible for Medicaid.

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 after the date 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 date 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.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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- By fax: 1-855-900-5557

Summary

The December 29, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to award you a special enrollment period in order to permit you 60 days to select a qualified health plan.

You remain eligible for up to \$217.00 per month in APTC and, if you select a silver-level plan, CSR.

You are not eligible for Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

