



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

Notice of Decision

Decision Date: April 29, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005839

[REDACTED]

Dear [REDACTED]

On March 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 19, 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 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).

This page intentionally left blank.



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

Decision

Decision Date: April 29, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005839

[REDACTED]

Issues

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

Did NYSOH properly determine that you were eligible to receive up to \$135.00 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 as of your December 18, 2015 application?

Procedural History

On December 10, 2015, you submitted an application for health insurance coverage.

On December 11, 2015, NYSOH issued a notice stating that more information was needed to make a determination about your eligibility. That notice directed you to submit income documentation by December 26, 2015.

On December 12, 2015, you updated the income information in your NYSOH account and uploaded four documents, consisting of four paystubs.

On December 13, 2015, NYSOH issued an eligibility determination stating that you were conditionally eligible to receive advance payment of the premium tax credit (APTC) of up to \$213.00 per month, and conditionally eligible for cost-sharing reductions (CSR), effective January 1, 2016.

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).

On December 18, 2015, NYSOH reviewed and verified the four paystubs you submitted.

Based on this information, on December 19, 2015, NYSOH issued an eligibility determination notice stating that you were eligible for APTC of up to \$135.00 per month, effective January 1, 2016, and not eligible for CSR as of your December 18, 2015 application.

On December 29, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination as it related to the amount of APTC you were found eligible for.

On March 22, 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 are seeking to receive a higher level of APTC for 2016 through this appeal.
- 2) 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.
- 3) When your eligibility was redetermined on December 18, 2015, it was based on an estimated annual household income of \$31,824.00. The record reflects that this income was calculated by NYSOH using the four paystubs that you uploaded on December 12, 2015. The paystubs were for the following dates and amounts:
 - a. Document [REDACTED] November 17, 2015 - \$680.00
 - b. Document [REDACTED] November 23, 2015 - \$680.00
 - c. Document [REDACTED] December 1, 2015 - \$408.00
 - d. Document [REDACTED] December 8, 2015 - \$680.00
- 4) The income used by NYSOH differed from your December 12, 2015 update application, in which you attested to a projected annual income of \$26,000.00.
- 5) You testified at the hearing that the paystubs you submitted, which NYSOH relied on in its December 19, 2015 eligibility determination, do not accurately represent your income because you work for a temporary

staffing agency, and your assignments, hours, and rates of pay are not consistent.

- 6) You testified that you still expect your income to be in the neighborhood of \$26,000.00 for the 2016 year.
- 7) You uploaded three documents as evidence before the hearing. The documents were as follows:
 - a. Document [REDACTED] A letter from the staffing agency you are employed with, explaining that your assignments can vary greatly in length and pay, and that your income is therefore inconsistent and difficult to predict.
 - b. Document [REDACTED] A paystub dated January 19, 2016 for \$595.00. The paystub also shows year to date earnings of \$1190.00
 - c. Document [REDACTED] A paystub dated February 23, 2016 for \$304.00, with year to date earnings of \$3585.00.
- 8) Your application states and your testimony confirmed that you do not at this time plan to take any deductions on your 2016 tax return.
- 9) You testified that you have paid your premiums for your coverage for the months of January, February, and March.
- 10) Your application states that you live in Kings 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 \$11,770.00 for a one -person household (80 Fed. Reg. 3236, 3237).

For annual household income in the range of at least 250% but less than 300% of the 2015 FPL, the expected contribution is between 8.18 % and 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).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on 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 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).

Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC for the benefit year, the Marketplace must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the benefit year (45 CFR § 155.330(g)).

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).

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

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for up to \$135.00 per month in APTC.

NYSOH redetermined your eligibility on December 18, 2015, after you submitted documentation of your income as directed. This redetermination was based on an estimated annual household income of \$31,824.00, which was calculated using the newly submitted 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 Kings County, where the second lowest cost silver plan available for an individual through NYSOH costs \$368.26 per month.

An annual income of \$31,824.00 is 270.38% of the 2015 FPL for a one-person household. At 270.38% of the FPL, the expected contribution to the cost of the health insurance premium is 8.78% of income, or \$232.85 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 (\$368.26 per month) minus your expected contribution (\$232.85 per month), which equals \$135.41 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$135.00 per month in APTC, based upon an annual income of \$31,824.00.

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).

The second issue under review is whether you were properly found not eligible 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 \$31,824.00 is 270.38% of the applicable FPL, NYSOH correctly found you to be not eligible for cost sharing reductions as of December 19, 2015.

However, you testified at the hearing that your projected annual income is \$26,000.00, which is what you attested to when you updated your application on December 12, 2015. You also provided paystubs to show that your income is inconsistent, and is not as high as what NYSOH projected it to be in its December 19, 2015 eligibility determination. The documentation you submitted for the first eight weeks of 2016 averaged to \$448.13 per week, or about \$23,302.50 per year.

Therefore, it is determined, given your credible testimony and documentation about the inconsistent nature of your income, that \$26,000.00 represents a reasonable estimate of your annual earnings for 2016.

When an enrollee in a QHP reports new information to NYSOH during a benefit year, NYSOH must verify such information and re-determine the enrollee's eligibility for APTC and CSR. Because you have submitted additional income documentation, your case is RETURNED to NYSOH to re-determine your eligibility for APTC and CSR based on a one-person household with a projected annual income of \$26,000.00 in Kings County. NYSOH will recalculate the amount of APTC in such a manner as to account for any advance payments already made on your behalf.

PLEASE BE AWARE that the amount of APTC you are entitled to will be reconciled at the end of the year when you file your tax return. If you have underestimated your annual earnings, you will be required to pay back the excess APTC as additional income tax. If you overestimate your annual income, you may receive a refund or a reduction in your tax bill.

Since the December 19, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$135.00 per month in APTC, and not eligible for cost-sharing reductions, it was correct and is AFFIRMED.

Decision

The December 19, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH for a redetermination of the APTC and CSR you are eligible for, based on a household of one with a projected annual income of \$26,000.00, residing in Kings County.

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).

Effective Date of this Decision: April 29, 2016

How this Decision Affects Your Eligibility

NYSOH properly determined you to be eligible for up to \$135.00 in APTC as of your December 19, 2015 application, and properly determined you to be not eligible for CSR.

However, NYSOH will now re-determine your eligibility for APTC for the remainder of the year based on the income information you attested to at your hearing, and will re-determine your eligibility for CSR.

You are responsible for reporting any changes in your income or other information to NYSOH within thirty days.

PLEASE BE AWARE that the amount of APTC you are entitled to will be reconciled at the end of the year when you file your tax return. If you have underestimated your annual earnings, you will be required to pay back the excess APTC as additional income tax. If you overestimate your annual income, you may receive a refund or a reduction in your tax bill.

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 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).

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 19, 2015 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH for a redetermination of the amount of APTC you are eligible for, based on a household of one with a projected annual income of \$26,000.00, residing in Kings County.

Your case is **RETURNED** to NYSOH for a redetermination of your eligibility for CSR, if you enroll in a silver level QHP, based on a projected annual household income of \$26,000.00.

NYSOH properly determined you to be eligible for up to \$135.00 in APTC as of your December 19, 2015 application, and properly determined you to be not eligible for CSR.

However, NYSOH will now re-determine your eligibility for APTC for the remainder of the year based on the income information you attested to at your hearing, and will re-determine your eligibility for CSR.

You are responsible for reporting any changes in your income or other information to NYSOH within thirty days.

PLEASE BE AWARE that the amount of APTC you are entitled to will be reconciled at the end of the year when you file your tax return. If you have underestimated your annual earnings, you will be required to pay back the excess APTC as additional income tax. If you overestimate your annual income, you may receive a refund or a reduction in your tax bill.

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).

Legal Authority

We are sending you this notice in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

