



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

## Notice of Decision

Decision Date: July 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005857

[REDACTED]

Dear [REDACTED]

On July 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 30, 2015 eligibility redetermination.

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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## Decision

Decision Date: July 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005857

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you were not eligible to enroll in any insurance affordability program through NY State of Health and were only eligible to purchase a qualified health plan at full cost, effective February 1, 2016?

## Procedural History

On December 30, 2015, NY State of Health (NYSOH) made a preliminary eligibility redetermination and found you eligible to purchase a qualified health plan at full cost.

Also on December 30, 2015, you spoke with a representative from NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were ineligible for any financial assistance.

On December 31, 2015, NYSOH issued an eligibility redetermination notice based on your December 30, 2015 updated application which stated you were eligible to purchase a qualified health plan at full cost through NYSOH effective February 1, 2016. That notice further stated you were not eligible for Medicaid because you are over the MAGI age limit, not eligible to receive advance premium tax credits (APTC) because you are under-income for that program, not eligible for cost sharing reductions because you were ineligible for APTC, and

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you were not eligible for the Essential Plan because you were not under 65 years of age as required.

On January 1, 2016, NYSOH issued another eligibility redetermination notice that contained the same findings as stated in the December 31, 2015 notice.

On July 8, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed after you submitted your 2015 federal tax return that same day, which was made part of the record as "Appellant's Exhibit A."

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account and your testimony, you expect to file your 2016 taxes with a tax filing status of qualifying widower with a dependent son, whom you expect to claim on that return.
- 2) You are seeking insurance for yourself.
- 3) According to your NYSOH account, you were born on [REDACTED] and are now 68 years old.
- 4) According to your NYSOH account, your dependent son was born on [REDACTED] and is now 41 years old.
- 5) According to your NYSOH account, you reported annual income for 2016 of \$3,172.32. You testified that you did not know if this was accurate and provided your 2015 federal tax return, which shows you had a loss of \$8,074.00 that year (see Appellant's Exhibit A, p.6). You further testified that you could not project what your earnings would actually be in 2016.
- 6) You testified that you do not qualify for Medicare because you had not contributed into the system.
- 7) You testified that you did not qualify for Medicaid through your Local Department of Social Services because you had savings.
- 8) Your application states that you live in Dutchess County, New York.

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).

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 \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

### 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)).

## Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

## Medicaid

An individual is eligible for enrollment in Medicaid through NYSOH (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

In general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

(45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social Services or the New York City Human Resources Administration (see N.Y. Soc. Serv. Law § 366(1)(c)).

NYSOH is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the Local Department of Social Services or the Human Resources Administration. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

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## Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NYSOH has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were not eligible for any financial assistance through the insurance affordability programs offered through NYSOH.

The application that was submitted on December 30, 2015 listed an annual household income of \$3,172.32 and the eligibility determination relied upon that information.

You are in a two-person household. This is because you expect to file your 2016 income taxes as a qualifying widower with a dependent child, whom you expect to claim on that return.

To be eligible for APTC, you would have to have an income of above \$15,930.00. Your reported annual income of \$3,172.32 is well below that minimum amount. Therefore, NYSOH correctly determined that you were under the minimum income necessary to be eligible for APTC.

The second issue is whether you were properly found ineligible for cost-sharing reductions. Cost-sharing reductions are only available to a person who has been determined eligible to receive APTC. Since you were determined ineligible for APTC, NYSOH correctly found you to be ineligible for cost sharing reductions.

Next, the Essential Plan is available to individuals who are 64 years old or younger. Similarly, Medicaid through NYSOH (called MAGI-based Medicaid) is available to individuals who are between the ages of 19 and 64, who are not eligible for Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; and parent or caretaker relatives of a dependent child.

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According to your testimony and the information in your NYSOH application, your son, while a dependent, is 41 years old and, therefore, you do not qualify as a parent or a caretaker relative of a dependent child.

The record reflects that, at the time NYSOH issued the December 31, 2015 eligibility determination, you were 67 years old. You testified that you were denied Medicare benefits because you had not contributed to the system.

Since you are over the allowable age limit of 64 years old or younger for the Essential Plan and not under age 65 for MAGI-based Medicaid, are not eligible to receive Medicare, and not a parent or caretaker relative of a dependent child, NYSOH properly determined that you are not eligible for the Essential Plan or Medicaid through NYSOH.

Based on the foregoing findings, the December 31, 2015 eligibility redetermination notice that stated you were eligible to purchase a qualified health plan at full cost and ineligible for APTC, cost sharing reductions, the Essential Plan, and Medicaid was correct and is AFFIRMED.

However, individuals who are not eligible for MAGI-based Medicaid because they are receiving Medicare, over the age of 65 or have become certified disabled may qualify for Medicaid under non-MAGI standards. NYSOH is required to refer these individuals to their Local Department of Social Services (LDSS) for redetermination of their Medicaid eligibility. Although you testified that you have already been denied Non-MAGI Medicaid by your LDSS, your case is nonetheless being RETURNED to NYSOH to refer your case to Dutchess County LDSS for reconsideration.

In the alternative, if you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

## **Decision**

The December 31, 2015 eligibility redetermination is AFFIRMED.

Your case is RETURNED to NYSOH to refer your case to Dutchess County LDSS.

**Effective Date of this Decision:** July 21, 2016



## **How this Decision Affects Your Eligibility**

You were eligible to purchase a qualified health plan at full cost through NYSOH during open enrollment in 2016.

Your case is being referred to Dutchess County LDSS to reconsider your eligibility for non-MAGI-based 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 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

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## **Summary**

The December 31, 2015 eligibility redetermination is AFFIRMED.

You were eligible to purchase a qualified health plan at full cost through NYSOH during open enrollment in 2016.

Your case is being referred to Dutchess County LDSS to reconsider your eligibility for non-MAGI-based Medicaid.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

