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

Notice of Decision

Decision Date: May 6, 2016

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000006261

[redacted]

Dear [redacted],

On May 4, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 16, 2016 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 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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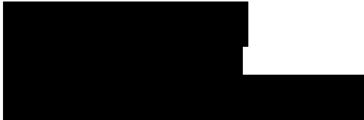

Issues

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

> Did NY State of Health (NYSOH) properly determine that your son was eligible to receive $0.00 per month in advance payments of the premium tax credit, effective February 1, 2016?
>
> Did NYSOH properly determine that your son was not eligible for cost-sharing reductions?

Procedural History

On January 15, 2016, NYSOH received your completed application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your son was eligible for an advance premium tax credit (APTC) of $0.00 per month. It did not address his eligibility for either cost-sharing reductions (CSR).

Also on January 15, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as your son was effectively found not eligible for an APTC to reduce the premium amount to afford a plan through NYSOH.

On January 16, 2016, NYSOH issued an eligibility determination notice based on the information contained in the January 15, 2016 application, stating that your son was eligible for an APTC of $0.00 of per month. It also stated that your son

was ineligible for CSR. This eligibility determination was effective February 1, 2016.

On May 4, 2016, with the assistance of a TTY Relay Operator, 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 expect to file your 2016 taxes with a tax filing status of head of household. You will claim your son as your sole dependent on that tax return.

2) As of the January 15, 2016 application, your son was 19 years old.

3) You are seeking insurance only for your son.

4) The application that was submitted on January 15, 2016 listed an annual household income of $43,680.00, consisting solely of income you receive from your employer, [redacted]. You testified that this amount was correct and was based on earning $24.00 per hour during an average of 35 hour workweek.

5) Your application states that you will not be taking any deductions on your 2016 tax return.

6) Your application states that you live in Westchester County.

7) You testified that you were seeking for your son to be able to enroll in a health plan with no premium and no co-pays.

8) You testified that your son was seeking a greater amount of APTC since her was a full-time student.

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 $15,930.00 for a two-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).

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 your son was eligible for an advance premium tax credit (APTC) of $0.00 per month.

The application that was submitted on January 15, 2016 listed an annual household income of $43,680.00 and the eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2016 income taxes as head of household and will claim your son as your sole dependent on that tax return.

You reside in Westchester County, where the second lowest cost silver plan available for a child only through NYSOH costs $162.70 per month.

An annual income of $43,680.00 is 274.20% of the 2015 FPL for a two-person household. At 274.20% of the FPL, the expected contribution to the cost of the health insurance premium is 8.90% of income, or $323.83 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 child only in your county ($162.70 per month) minus your expected contribution ($323.83 per month). Since the cost of the second lowest cost silver plan through NYSOH for a child only in your county exceeds your expected contribution to the cost of health insurance, NYSOH correctly determined your son to be eligible for $0.00 per month in APTC at this time.

The second issue is whether your son was properly found ineligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of $43,680.00 is 274.20% of the applicable FPL, NYSOH correctly found your son to be ineligible for CSR.

Since the January 16, 2016 eligibility determination properly stated that, based on the information you provided, your son was eligible for $0.00 per month in APTC and ineligible for CSR, it is correct and is AFFIRMED.

Decision

The January 16, 2016 eligibility determination notice is AFFIRMED.

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: May 6, 2016

How this Decision Affects Your Eligibility

Your son is effectively ineligible for APTC at this time.

Your son is ineligible for 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 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:

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- By fax: 1-855-900-5557

Summary

The January 16, 2016 eligibility determination notice is AFFIRMED.

Your son is effectively ineligible for APTC at this time.

Your son is ineligible for CSR.

Legal Authority

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A Copy of this Decision Has Been Provided To:

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