



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

Notice of Decision

Decision Date: June 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006318

[REDACTED]

Dear [REDACTED],

On May 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 15, 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 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006318

[REDACTED]

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 conditionally eligible to receive up to \$128.00 per month in advance payments of the premium tax credit, effective February 1, 2016?

Did NYSOH properly determine that you were not eligible for cost-sharing reductions?

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

Procedural History

On January 14, 2016, NYSOH received your updated application for health insurance.

On January 15, 2016, NYSOH issued an eligibility determination notice based on the information contained in the January 14, 2016 application, stating that you were conditionally eligible to receive up to \$128.00 per month in advance payments of the premium tax credit (APTC), pending proof of your income, effective February 1, 2016.

The January 15, 2016 eligibility determination notice also stated that you were not eligible for cost-sharing reductions (CSR) because your household income of \$32,366.00 was over the allowable income limit of \$29,425.00, and that you were

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not eligible for Medicaid because your household income was over the allowable income limit of \$16,243.00.

On January 18, 2016, NYSOH issued a notice of enrollment confirmation, confirming your January 17, 2016 enrollment in a bronze-level qualified health plan (QHP), effective March 1, 2016.

On January 20, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the January 15, 2016 eligibility determination and the January 18, 2016 enrollment confirmation notice.

On May 10, 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 no longer appealing the start date of your coverage, but only wish to appeal the amount of financial assistance you are receiving.
- 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) The application that was submitted on January 14, 2016 listed annual household income of \$32,366.00, consisting of earned income.
- 4) At the hearing, you testified that you are not sure what you based this amount on.
- 5) You testified that your income comes partially from self-employment, and partially from [REDACTED] with the [REDACTED]
[REDACTED]
- 6) You testified that your income from your self-employment is inconsistent and varied.
- 7) You testified that you estimate that you earn anywhere from \$900-\$1200 bi-weekly from [REDACTED]. However, you also testified that you were suspended for a month beginning April 14, 2016, and ending May 16, 2016, so you therefore had no income from the [REDACTED]
[REDACTED] during that time.

- 8) You testified that it is difficult to predict what your annual income will be, but that, based on what you have earned so far in 2016, you believe it will be somewhere closer to \$21,732.00.
- 9) You testified that you have expenses that you would like NYSOH to consider when determining your eligibility for assistance. You testified that you are paying your mother back for a loan she gave you, and paying IRS debt. You testified that, so far, you have paid \$250.00 toward these two expenses in 2016. You also testified that you have living expenses such as rent that you are responsible for.
- 10) Your application states that you will not be taking any deductions on your 2016 tax return. You testified that you were not sure whether you would have deductions for 2016.
- 11) The record reflects that you were directed to provide income documentation to NYSOH by April 13, 2016 to confirm your eligibility.
- 12) The record reflects that no income documentation has been submitted to NYSOH in the time since your January 14, 2016 application.
- 13) The record also reflects that your NYSOH account has not been updated since your January 14, 2016 application.
- 14) You testified that you have not updated your income information with NYSOH, and that you were not aware that this was something that is required.
- 15) 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

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

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“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income for the purposes of eligibility for financial assistance through NYSOH.

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 Federal Register 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).

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)), NY Social Services 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 2015 FPL, which is \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

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 APTC of up to \$128.00 per month.

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The application that was submitted on January 14, 2016 listed an annual household income of \$32,366.00, 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 zero dependents on that tax return.

You reside in Kings County, where the second lowest cost silver plan available for an individual subscriber through NYSOH costs \$368.26 per month.

An annual income of \$32,366.00 is 274.99% of the 2015 FPL for a one-person household. At 274.99% of the FPL, the expected contribution to the cost of the health insurance premium is 8.92% of income, or \$240.59 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 (\$240.59 per month), which equals \$127.67 month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$128.00 per month in APTC.

You testified at the hearing that you have expenses such as rent and living expenses, as well as debts you are paying off. However, an individual's eligibility for financial assistance through NYSOH is based on their modified adjusted gross income, as defined by federal tax code. The determination of an individual's adjusted gross income is based on gross income minus certain specific deductions. Since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable and phone to be deducted from the calculation of your adjusted gross income, they cannot be deducted when NYSOH computes your modified adjusted gross income for APTC purposes.

The second issue 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 \$32,366.00 is 274.99% of the applicable FPL, NYSOH correctly found you to be not eligible for cost sharing reductions, based on the information contained in your January 14, 2016 application.

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

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\$11,770.00 for a one-person household. Since \$32,366.00 is 274.99% of the 2015 FPL, NYSOH properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your January 14, 2016 application.

You testified at the hearing that you believe your 2016 income may actually be closer to \$21,732.00, based on what you have earned so far this year. However, you were not able to provide more specific information as to your income at the hearing. Additionally, you have not updated your NYSOH account, nor have you provided income documentation to NYSOH, as directed in the January 15, 2016 eligibility determination notice. Therefore, there is not sufficient evidence to provide a basis for returning your case to NYSOH.

Since the January 15, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$128.00 per month in APTC, not eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

If you want to find out whether you may be eligible for a higher level of financial assistance going forward, you should update your NYSOH account so that a new determination can be made as to your eligibility.

Decision

The January 15, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 7, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$128.00 in APTC.

You were not eligible for CSR, as of your January 14, 2016 application.

You were no eligible for Medicaid, as of your January 14, 2016 application.

If you want to find out whether you may be eligible for a higher level of financial assistance, you must update your NYSOH account.

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

Summary

The January 15, 2016 eligibility determination notice is **AFFIRMED**.

You remain eligible for up to \$128.00 in APTC.

You were not eligible for CSR, as of your January 14, 2016 application.

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You were no eligible for Medicaid, as of your January 14, 2016 application.

If you want to find out whether you may be eligible for a higher level of financial assistance, you must update your NYSOH account.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

