



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

Notice of Decision

Decision Date: May 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006328

[REDACTED]

Dear [REDACTED],

On May 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 21, 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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NY State of Health Account ID: [REDACTED]
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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 properly determine that you were eligible to receive \$0.00 per month in advance payments of the premium tax credit, effective March 1, 2016?

Did NY State of Health properly determine that you were ineligible for cost-sharing reductions, effective March 1, 2016?

Procedural History

On January 20, 2016, NY State of Health (NYSOH) received your completed application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible for \$0.00 per month in advance premium tax credits (APTC), and effective March 1, 2016. The preliminary determination did not address your eligibility for cost-sharing reductions (CSR).

Also on January 20, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were seeking a greater amount of APTC.

On January 21, 2016, NYSOH issued an eligibility determination notice based on the information contained in the January 20, 2016 application, stating that you were eligible for an APTC of \$0.00 and ineligible for CSR.

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On May 11, 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 expect to file your 2016 taxes with a tax filing status of married filing jointly. You will not claim any dependents on that tax return.
- 2) You are seeking insurance for only yourself.
- 3) The application that was submitted on January 20, 2016 listed annual household income of \$51,901.96, consisting of an estimated monthly net income of \$313.00 you expect receive in connection with your self-employment, and \$49,000.00 your spouse expects to receive in from his employment with [REDACTED]. You testified that these amounts were correct when you submitted your January 20, 2016 application, but your spouse has since received a raise which will bring his estimated annual income to \$58,000.00 during 2016.
- 4) Your January 20, 2016 application states that you will be taking an \$858.00 tax deduction on your return in connection with your self-employment.
- 5) You live in Kings County, New York.
- 6) You testified that based on your current essential financial obligations, such as rent, utilities and food, even the least expensive bronze-level plan available through the Marketplace is unaffordable. You further testified that even with assistance from your spouse, you cannot afford a plan premium greater than \$200.00 per month.

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

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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 300% but less than 400% of the 2015 FPL, the expected contribution is 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 you were eligible for an APTC of \$0.00 per month.

The application that was submitted on January 20, 2016 listed an annual household income of \$51,901.96, and the eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2016 income taxes as married filing jointly 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 \$51,901.96 is 325.81% of the 2015 FPL for a two-person household. At 325.81% of the FPL, the expected contribution to the cost of the health insurance premium is 9.66% of income, or \$417.81 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 (\$417.81 per month). Since your expected monthly contribution exceeded the cost of the second lowest cost silver plan available through NYSOH for an individual in your county, NYSOH correctly determined you to be eligible for \$0.00 per month in APTC.

The second issue is whether you were 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 \$51,901.96 is 325.81% of the applicable FPL, NYSOH correctly found you to be ineligible for CSR.

Since the January 21, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for \$0.00 per month in APTC and ineligible for CSR, it is correct and is AFFIRMED.

Furthermore, since the only change in income you testified to at the hearing was that your spouse received a raise, which would increase his total anticipated annual income from \$49,000.00 to \$58,000.00, there would effectively be no change in your eligibility for either APTC or CSR. Therefore, there is insufficient evidence to return your case to NYSOH for a redetermination of your eligibility for financial assistance.

Decision

The January 21, 2016 eligibility determination notice is AFFIRMED.

There is insufficient evidence to return your case to NYSOH for a redetermination of your eligibility for financial assistance.

Effective Date of this Decision: May 17, 2016

How this Decision Affects Your Eligibility

Your eligibility has not changed.

You remain eligible for \$0.00 per month of APTC, and 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:

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Summary

The January 21, 2016 eligibility determination notice is AFFIRMED.

There is insufficient evidence to return your case to NYSOH for a redetermination of your eligibility for financial assistance.

Your eligibility has not changed.

You remain eligible for \$0.00 per month of APTC, and ineligible for CSR.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

