



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

Notice of Decision

Decision Date: May 19, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006382

[REDACTED]

Dear [REDACTED],

On May 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 15, 2016 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 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 conditionally eligible to receive up to \$ 256.00 per month in advance payments of the premium tax credit, effective May 1, 2016?

Did NY State of Health properly determine that were conditionally eligible for cost-sharing reductions, effective May 1, 2016?

Procedural History

On April 15, 2016, NY State of Health (NYSOH) received your updated application for health insurance after you uploaded an income document.

On April 16, 2016, NYSOH issued an eligibility redetermination notice that stated you were conditionally eligible to receive up to \$256.00 per month in advance payments of the premium tax credit (APTC) and, if you selected a silver-level qualified health plan (QHP), conditionally eligible for cost-sharing reductions, effective May 1, 2016.

Also on April 16, 2016, NYSOH issued an enrollment notice confirming your enrollment in a silver-level QHP and your monthly premium responsibility of \$284.17 after your monthly APTC of \$256.00 was applied, effective March 1, 2016.

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On April 20, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that redetermination insofar as you wanted a larger amount of APTC so that your health insurance would be affordable.

On May 17, 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 single and will not claim any dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on April 15, 2016 listed annual household income of \$23,880.00 in income you expected to earn in 2016 as a freelancer. You testified that this amount was no longer correct.
- 4) According to your April 1, 2016 earnings statement, you made \$6,750.00 year-to-date [REDACTED]. You testified that this amount was accurate but that your ability to find work has since diminished due to lack of work in your industry. You testified that you had no earnings in April 2016 and expect to average \$2,000.00 gross per month for the remaining 8 months in 2016, which equals \$16,000.00.
- 5) You testified that you do not want to be redetermined eligible for Medicaid because you are an established patient with many New York City area doctors, none of whom participate in any Medicaid programs.
- 6) You testified that it is difficult to see specialists for an injury you suffered last year because of the annual deductible amount of \$1,500.00 that has been assessed.
- 7) You further testified that it is difficult to meet your monthly premium responsibility because of the cost of your basic living needs, including rent and transportation, and that you have to use your retirement funds to pay your monthly premiums.
- 8) Your application states that you will not be taking any deductions on your 2016 tax return but you testified you may move this year and are aware that, if you move, the related expenses can be deducted from your gross income.

9) Your application states that you live in Nassau County, New York.

10) You are seeking to have your eligibility for APTC and cost sharing reductions redetermined so that you can afford your health insurance.

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 updated application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

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For annual household income in the range of at least 200% but less than 250% of the 2015 FPL, the expected contribution is between 6.41% and 8.18% 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)).

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)).

“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, utilities, and transportation are not an allowable deductions in computing adjusted gross income. Subject to some limitations, deductions that are attributable to a trade or business may be deductions from a taxpayers adjusted gross income (26 USC § 62 (a)(1)).

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 first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$256.00 per month.

The application that was submitted on April 15, 2016 listed an annual household income of \$23,880.00 and the eligibility determination relied upon that information.

At the hearing, you asked that your current expenses, which include rent, transportation and other living expenses, be considered when calculating your annual household income. Since the Internal Revenue Service rules do not allow living expenses such as rent, transportation and other living expenses to be deducted from the calculation of your adjusted gross income, such expenses cannot be deducted when NYSOH computes your modified adjusted gross income for APTC purposes.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as single and will not claim any dependents on that tax return.

You reside in Nassau County, where the second lowest cost silver plan available for an individual through NYSOH costs \$385.22 per month.

An annual income of \$23,880.00 is 202.89% of the 2015 FPL for a one-person household. At 202.89% of the FPL, the expected contribution to the cost of the health insurance premium is 6.51% of income, or \$129.55 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

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county (\$385.22 per month) minus your expected contribution (\$129.55 per month), which equals \$255.67 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$256.00 per month in APTC.

The second issue is whether you were properly found 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 \$23,880.00 is 202.89% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

Since the April 16, 2016 eligibility redetermination notice properly stated that, based on the information you provided, you were eligible for up to \$256.00 per month in APTC and eligible for cost-sharing reductions, it is correct and is **AFFIRMED**.

However, at the hearing you testified to a change in income due to lack of work in your industry, which information was not available as of your April 15, 2016 updated application. You testified that during 2016, you earned \$6,750.00 through April 2016 and project to earn \$2,000.00 per month from May 2016 through December 2016, or \$16,000.00. You did not testify as to any deductions you expected to be able to take as of the date of your hearing. As such, your updated income information would result in a modified adjusted gross income (MAGI) of \$22,750.00 for 2016. Therefore, your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance, including levels of APTC and cost sharing reductions to which you are entitled, based on a household of one person residing in Nassau County with an attested household income of \$22,750.00.

In addition, 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) for direction.

Decision

The April 16, 2016 eligibility redetermination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility for financial assistance, including levels of APTC and cost sharing reductions to which you are entitled, based on a household of one person residing in Nassau County with an attested household income of \$22,750.00.

Effective Date of this Decision: May 19, 2016

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How this Decision Affects Your Eligibility

You remain eligible to receive up to \$256.00 monthly in APTC and for cost sharing reductions.

NYSOH will redetermine your eligibility for financial assistance, including levels of APTC and cost sharing reductions to which you are entitled, based on a household of one person residing in Nassau County with an attested household income of \$22,750.00. NYSOH will notify you accordingly.

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 April 16, 2016 eligibility redetermination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance, including levels of APTC and cost sharing reductions to which you are entitled, based on a household of one person residing in Nassau County with an attested household income of \$22,750.00.

You remain eligible to receive up to \$256.00 monthly in APTC and for cost sharing reductions.

NYSOH will redetermine your eligibility for financial assistance, including levels of APTC and cost sharing reductions to which you are entitled, based on a household of one person residing in Nassau County with an attested household income of \$22,750.00. NYSOH will notify you accordingly.

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) for direction.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

