



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: AP000000006395

[REDACTED]

Dear [REDACTED],

On May 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 15, 2016 eligibility determination and January 29, 2016 enrollment confirmation notices.

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.

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Decision

Decision Date: June 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006395

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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 you were eligible to receive up to \$169.00 per month in advance payments of the premium tax credit, effective February 1, 2016?

Did NYSOH properly determine that you were eligible for cost-sharing reductions, effective February 1, 2016?

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

Did NYSOH properly determine that your enrollment in a qualified health plan, as well as the application of advance premium tax credits, was effective March 1, 2016?

Procedural History

On October 24, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015, or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2015.

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On December 21, 2015, NYSOH issued an eligibility determination notice stating that you were newly eligible to enroll in a qualified health plan (QHP) at full cost, effective January 1, 2016. This notice also stated that you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

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

On January 15, 2016, NYSOH issued a notice of eligibility redetermination stating that you were eligible to receive up to \$169.00 per month in advance payment of the premium tax credit (APTC) and, if you selected a silver-level qualified health plan, for cost-sharing reductions (CSR). This eligibility was effective February 1, 2016.

On January 29, 2016, NYSOH issued a letter confirming your enrollment in an individual silver-level QHP with a monthly premium responsibility of \$209.41, after your APTC of \$169.00 was applied, effective March 1, 2016.

On January 21, 2016, NYSOH uploaded a written appeal request that you faxed to NYSOH.

On May 16, 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 head of household with qualifying individual. You will claim one dependent on that tax return.
- 2) You are appealing the amount of financial assistance for which you were found eligible, and you are also appealing the start date of your coverage.
- 3) The application that was submitted on January 14, 2016 listed annual household income of \$34,401.90, consisting of earned income from employment. You testified that this amount was correct at the time when you updated your account.

- 4) However you further testified that your income changed in February 2016, when you went from part-time to per diem at one of your jobs. You testified that you are working 20-25 hours per week at the per diem job for \$15.60 an hour, and working 12-13 hours per week for \$9.00 an hour at a second part-time job.
- 5) You testified that your 2016 income will be less than what you attested to on your January 14, 2016 application.
- 6) The record reflects that you have not updated the income information in your NYSOH account since your January 14, 2016 application.
- 7) Your application states that you will not be taking any deductions on your 2016 tax return.
- 8) Your application states that you live in Monroe County.
- 9) Your NYSOH account indicates that you receive notices from NYSOH by regular mail, and you testified that this is correct.
- 10) You testified that you did not receive any notices from NYSOH telling you that you needed to update the information in your NYSOH account to ensure that your coverage would not be interrupted and that your financial assistance would continue.
- 11) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 12) You testified that you did not know you needed to renew your application until you tried to get your son an appointment for the dentist, and you were told that you had no insurance.
- 13) You testified that you did receive a cancellation notice sometime in December 2015 or January 2016.
- 14) The record reflects that you updated the information in your NYSOH account on January 14, 2016.
- 15) The record also reflects that you enrolled in a QHP on January 28, 2016.

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 Federal Register 3236, 3237).

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

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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)), N.Y. Soc. Serv. 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 \$15,930.00 for a two-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).

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility

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for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not made) on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the overall benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for an APTC of up to \$169.00 per month.

The application that was submitted on January 14, 2016 listed an annual household income of \$34,401.90, 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 with qualifying individual, and will claim one dependents on that tax return.

You reside in Monroe County, where the second lowest cost silver plan available for an individual subscriber through NYSOH costs \$368.63 per month.

An annual income of \$34,401.90 is 215.96% of the 2015 FPL for a two-person household. At 215.96% of the FPL, the expected contribution to the cost of the health insurance premium is 6.97% of income, or \$199.82 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 subscriber in your county (\$368.63 per month) minus your expected contribution (\$199.82 per month), which equals \$168.81 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$169.00 per month in APTC.

The second issue under review is whether you were properly found eligible for CSR. CSR are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$34,401.90 is 215.96% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The third issue under review 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 \$15,930.00 for a two-person household. Since \$34,401.90 is 215.96% 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 application.

You testified at the hearing that your income changed in February 2016 when one of your part-time jobs became a per diem job, and your hours became more varied. You testified that you now expect your 2016 income to be less than what you attested to on your January 14, 2016 application. However, you have not updated your NYSOH application since January 14, 2016. If you wish to have your eligibility redetermined based on new income information, you must update your NYSOH account so that your eligibility for financial assistance can be determined based on any new information that you provide.

Since the January 15, 2016 eligibility determination properly stated that, based on the information you provided in your January 14, 2016 application, you were eligible for up to \$169.00 per month in APTC, eligible for CSR, and not eligible for Medicaid, it is correct and is AFFIRMED.

The final issue under review is whether NYSOH properly determined that your enrollment in a qualified health plan as well as your eligibility for advance premium tax credits was effective March 1, 2016.

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NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 24, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you would qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2015, or the financial help you were receiving might end.

Because there was no timely response to this notice, you were found eligible to enroll in a full-cost QHP, effective January 1, 2016, and your eligibility for financial assistance was terminated effective December 31, 2015.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

The record shows that on January 14, 2016, you updated the information in your NYSOH account. However, you did not select a QHP until January 28, 2016.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected after the fifteenth day of the month goes into effect the first day of the second following month.

Therefore, NYSOH's January 15, 2016 eligibility determination notice is AFFIRMED because it properly determined that your eligibility for APTC began on February 1, 2016. Likewise, NYSOH's January 29, 2016 enrollment confirmation notice is AFFIRMED because it properly determined that your enrollment in your QHP, as well as the application of your APTC, began on March 1, 2016, based on your January 28, 2016 plan selection.

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Decision

The January 15, 2016 eligibility determination notice is AFFIRMED.

The January 29, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: June 7, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$169.00 in APTC.

You remain eligible for cost-sharing reductions.

You are not eligible for Medicaid, as of your January 14, 2016 application.

If you want to find out whether you may qualify for a higher level of financial assistance, you must update the information in your NYSOH account and provide current income information to NYSOH so that your eligibility can be reviewed.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

The January 15, 2016 eligibility determination notice is AFFIRMED.

The January 29, 2016 enrollment confirmation notice is AFFIRMED.

You remain eligible for up to \$169.00 in APTC.

You remain eligible for cost-sharing reductions.

You are not eligible for Medicaid, as of your January 14, 2016 application.

If you want to find out whether you may qualify for a higher level of financial assistance, you must update the information in your NYSOH account and provide current income information to NYSOH so that your eligibility can be reviewed.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

