



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

Notice of Decision

Decision Date: May 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006414

[REDACTED]

Dear [REDACTED],

On May 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 16, 2016 eligibility determination notice.

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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DEPARTMENT OF HEALTH
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Decision Date: May 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006414

[REDACTED]

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 up to \$101.00 per month in advance payments of the premium tax credit, effective February 1, 2016?

Did NY State of Health properly determine that you were not eligible for cost-sharing reductions?

Procedural History

On January 15, 2016, NY State of Health (NYSOH) received your completed application for health insurance, in which you attested to an expected yearly income of \$34,208.00.

On January 16, 2016, NYSOH issued an eligibility determination notice based on the information contained in the January 15, 2016 application, stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$101.00 per month, but ineligible for cost-sharing reductions (CSR). This eligibility determination was effective as of February 1, 2016.

On January 23, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the January 16, 2016 eligibility determination notice insofar as you were found eligible for an APTC no greater than \$101.00 per month.

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On January 24, 2016, NYSOH issued a notice of enrollment, confirming that you had selected to enroll in a qualified health plan issued by CareConnect at a monthly premium of \$222.00, after applying the maximum APTC of \$101.00. The notice also stated that your coverage would begin on March 1, 2016, provided you paid the premium amount.

On May 20, 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. You will claim no dependents on that tax return.
- 2) You are seeking insurance only for yourself.
- 3) The application that was submitted on January 15, 2016 listed annual household income of \$34,208.00, consisting of \$404.00 per week you expect to receive from your employer, [REDACTED] and \$1,200.00 per month in pension benefits you receive from [REDACTED]. You testified that these amounts were correct.
- 4) Your January 15, 2016 application stated that you would be taking a single deduction on your 2016 tax return in connection with a penalty you incurred on an early withdrawal from a savings account. You testified that this penalty was actually incurred during 2014 when you made an early withdrawal from a 401(k) retirement account, and that deduction was only applicable to that year's tax return, not 2016.
- 5) You live in Kings County, New York.
- 6) You testified that you were seeking a greater amount of APTC since your monthly expenditures made plans through the NYSOH unaffordable.

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 \$11,770.00 for a one-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).

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)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$101.00 per month.

The application that was submitted on January 15, 2016 listed an annual household income of \$34,208.00, which consisted of (1) \$21,008.00 (\$404.00 x 52 weeks) you expect to receive from your employer, [REDACTED], (2) \$14,400.00 (\$1,200.00 x 12 months) in pension benefits you receive from [REDACTED], and (3) a single deduction of \$1,200.00 relating to a penalty you incurred from an early withdrawal from a savings or retirement account. NYSOH relied upon this information to issue its eligibility determination.

You are in a one-person household. You expect to file your 2016 income taxes as single 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 \$34,208.00 is 290.64% of the 2015 FPL for a one-person household. At 290.64% of the FPL, the expected contribution to the cost of the health insurance premium is 9.38% of income, or \$267.39 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 (\$267.39 per month), which equals \$100.87 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$101.00 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 \$34,208.00 is 290.64% of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

Since the January 15, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$101.00 per month in APTC and ineligible for CSR, it is correct and is AFFIRMED.

You credibly testified, however, that the single \$1,200.00 deduction referenced in your application was actually a penalty you incurred in connection with an early withdrawal from your 401(k) retirement account. This penalty was incurred during 2014 and claimed as a deduction on your 2014 tax return. You testified that you did not anticipate taking any deductions on your 2016 tax return.

Since the record now reflects that the deduction should not have been considered when calculating your annual household income for 2016, the evidence reflects that your annual household income should have been \$35,408.00, rather than \$34,208.00.

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on an annual household income of \$35,408.00 for a one-person household in Kings County.

Decision

The January 15, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on an annual household income of \$35,408.00 for a one-person household in Kings County.

Effective Date of this Decision: May 24, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$101.00 per month of APTC.

You are not eligible for CSR.

You will receive a new eligibility determination from NYSOH based on an annual household income of \$35,408.00 for a one-person household in Kings County.

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 \$101.00 per month of APTC.

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You are not eligible for CSR.

You will receive a new eligibility determination from NYSOH based on an annual household income of \$35,408.00 for a one-person household in Kings County.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

