



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

Notice of Decision

Decision Date: June 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006562

[REDACTED]

Dear [REDACTED],

On June 15, 2016, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's January 23, 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]
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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your spouse was eligible to receive up to \$263.00 per month in advance payments of the premium tax credit, effective March 1, 2016?

Did NY State of Health properly determine that your spouse was eligible for cost-sharing reductions?

Procedural History

On January 22, 2016, NY State of Health (NYSOH) received your updated application for health insurance.

On January 23, 2016, NYSOH issued an eligibility determination notice based on the information contained in the January 22, 2016 application, stating that you were eligible to enroll in the Essential Plan, effective March 1, 2016, and your spouse was eligible to receive up to \$263.00 per month in advance payments of the premium tax credit (APTC), and eligible for cost-sharing reductions (CSR), effective March 1, 2016.

Also on January 23, 2016, NYSOH issued an enrollment confirmation notice, confirming your enrollment in an Essential Plan, and confirming your spouse's enrollment in an individual silver-level qualified health plan (QHP) with a monthly premium of \$111.10 per month, effective March 1, 2016.

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On January 27, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the January 23, 2016 eligibility determination insofar as you wanted your spouse to be found eligible for a higher amount of APTC.

On June 15, 2016, your spouse 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 filed this appeal on behalf of your spouse only.
- 2) Your spouse is 65 years old.
- 3) Your spouse testified that you and he expect to file your 2016 tax return with a filing status of married, filing jointly. You will claim no dependents on that tax return.
- 4) The eligibility determination that was made on was based on an annual gross household income of \$26,400.00, consisting of money you and your spouse earn in employment income.
- 5) Your spouse was not able to testify as to how much income you earn, except to say that you work part-time.
- 6) Your spouse testified that he does not expect that either of you will be taking any deductions on your 2016 tax return.
- 7) Your spouse testified that he is seeking to be eligible for a higher level of tax credit because he is finding the premium amount unaffordable.
- 8) 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

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 Federal Register 3236, 3237).

For annual household income in the range of at least 150 % but less than 200 % of the 2015 FPL, the expected contribution is between 4.07 % and 6.41% 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)).

Legal Analysis

The first issue is whether NYSOH properly determined that your spouse was eligible for an APTC of up to \$263.00 per month.

The eligibility determination issued on January 23, 2016 relied on an income of \$26,400.00.

Your spouse is in a two-person household. You and he expect to file your 2016 income taxes as married filing jointly and will claim no dependents on that tax return.

You and your spouse 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 \$26,400.00 is 165.73% of the 2015 FPL for a two-person household. At 165.73% of the FPL, the expected contribution to the cost of the health insurance premium is 4.81% of income, or \$105.82 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 in your county (\$368.26 per month) minus your expected contribution (\$105.82 per month), which equals \$262.44 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined your spouse to be eligible for up to \$263.00 per month in APTC.

The second issue is whether your spouse was 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 \$26,400.00 is 165.73% of the applicable FPL, NYSOH correctly found your spouse to be eligible for cost sharing reductions.

Since the January 23, 2016 eligibility determination properly stated that, based on the information in your account, your spouse was eligible for up to \$263.00 per month in APTC and eligible for, it is correct and is AFFIRMED.

Since your spouse was unable to specifically testify as to what your income was, at the time of the application, there is nothing to contradict the information that NYSOH relied on in its January 23, 2016 eligibility determination, and therefore no reason to return your case to NYSOH.

However, if you or your spouse believe that the income information that NYSOH relied on is incorrect, you can always update your account and submit proof of your income so that your spouse's eligibility can be redetermined.

Additionally, when you file your 2016 tax return, if your spouse was entitled to more APTC than he received, the amount that he should have received will be returned to your household as a tax refund or as a credit on your household's tax bill.

Decision

The January 23, 2016 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: June 21, 2016

How this Decision Affects Your Eligibility

Your spouse remains eligible for up to \$263.00 in APTC.

Your spouse is eligible for cost-sharing reductions.

If you or your spouse believe that the income information that NYSOH relied on is incorrect, you can update your NYSOH account to have your household's eligibility redetermined. Remember that if you change the income information in your account, it could affect not only your spouse's eligibility, but also your eligibility.

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.

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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 23, 2016 eligibility determination notice is AFFIRMED.

Your spouse remains eligible for up to \$263.00 in APTC.

Your spouse is eligible for cost-sharing reductions.

If you or your spouse believe that the income information that NYSOH relied on is incorrect, you can update your NYSOH account to have your household's eligibility redetermined. Remember that if you change the income information in your account, it could affect not only your spouse's eligibility, but also your eligibility.

Legal Authority

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A Copy of this Decision Has Been Provided To:

