



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

## Notice of Decision

Decision Date: June 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006639

[REDACTED]

Dear [REDACTED]

On June 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 19, 2015 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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## Decision

Decision Date: June 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006639

[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 \$227.00 per month in advance payments of the premium tax credit, effective January 1, 2016?

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

Did NY State of Health properly determine that you found not eligible to enroll in the Essential Plan?

Did NY State of Health properly determine that you were not eligible for Medicaid?

## Procedural History

On December 18, 2015, NY State of Health (NYSOH) received your completed application for health insurance.

On December 19, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 18, 2015 application, stating that you were eligible to receive an advance premium tax credit of up to \$227.00 per month; eligible for cost-sharing reductions (CSR), provided you selected silver-level plan; and, ineligible for Medicaid. This determination did not make a

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decision on whether you were eligible for the Essential Plan. This eligibility determination was effective January 1, 2016.

On January 29, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the December 19, 2015 eligibility determination notice.

On June 7, 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 December 18, 2015 listed an annual household income of \$24,911.16, consisting of \$13.45 you earn per hour from your employer, [REDACTED] over the course of approximately 36 hours per week, and a monthly deduction of \$22.27 you expect to claim on your 2016 tax return in connection with interest you pay toward your student loans issue by [REDACTED]. You testified that this approximate overall income amount was correct.
- 4) You testified that your monthly income for December 2015 was \$1,831.17, which consisted of \$781.85 on December 11, 2015 and \$1,049.32 you received on December 24, 2015.
- 5) You testified that your available income is further reduced by a 10% tithe that you contribute to either your religious organization or other charitable contributions.
- 6) You live in Kings County, New York.
- 7) You testified that the plan you are currently enrolled in is unaffordable without additional tax credits.
- 8) You testified after taking into account your necessary monthly obligations, you are unable to contribute any additional monies toward the cost of your health insurance. You also testified that your parents have reduced your rent by approximately \$200.00 per month in order to free up additional funds to pay the monthly premium of your qualified health plan.

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- 9) You testified that you were seeking a greater amount of tax credits, eligibility for the Essential Plan, or to be able to reenroll in Medicaid.

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 2015FPL, 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 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).

### 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)).

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), N.Y. Soc. Serv. Law § 369-gg(3), 42 USC § 18051).

### 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 \$11,770.00 for a one-person household (80 Fed. Reg. 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

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(42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

## **Legal Analysis**

The first issue is whether NYSOH properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$227.00 per month.

The application that was submitted on December 18, 2015 listed an annual household income of \$24,911.16, which consisted of (1) \$25,178.40 (\$13.45 per hour x 36 hours x 52 weeks) you expect to receive from your employer, [REDACTED] and (2) \$267.24 deduction you expect to claim on your 2016 tax return in connection with interest you pay toward your student loans issued. The eligibility determination relied upon that information.

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 \$24,911.16 is 211.64% of the 2015 FPL for a one-person household. At 211.64% of the FPL, the expected contribution to the cost of the health insurance premium is 6.82% of income, or \$141.58 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 (\$141.58 per month), which equals \$226.68 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$227.00 per month in APTC.

The second issue is whether you were properly found eligible 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 \$24,911.16 is 211.64% of the applicable FPL, NYSOH correctly found you to be eligible for CSR

The third issue is whether NYSOH properly determined that you were ineligible to enroll in the Essential Plan.

The Essential Plan is available to a person who had a household income between 138% and 200% of the applicable FPL. Since a household income of

\$24,911.16 is 211.64% of the applicable FPL, you are ineligible for the Essential Plan.

The final issue is whether NYSOH properly determined that you were ineligible 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 \$11,770.00 for a one-person household. Since \$24,911.16 is 211.64% of the 2015 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You credibly testified that (1) you received \$1,831.17 in earned income from your employer during the month of your application, December 2015, which consisted of \$781.85 on December 11, 2015 and \$1,049.32 you received on December 24, 2015, and (2) you would have claim a pro-rata monthly portion of student loan interest deduction during December 2015, which would have been \$22.27.

You also testified that you typically contribute a 10% tithe to either your religious organization or other charitable contributions, and thereby reduce your available income. However, the record does not contain sufficient documentation to support your testimony. Accordingly, we are unable to consider it in computing your income during December 2015.

Therefore, the credible evidence of record reflects that you received \$1,808.90 during December 2015.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,354.00 per month. Since the documentation you provided shows that you earned \$1,808.90 in December 2015, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the December 19, 2015 eligibility determination notice properly stated that, based on the information you provided, you were eligible for up to \$227.00 per month in APTC, eligible for CSR, ineligible for the Essential Plan and Medicaid, it is correct and is AFFIRMED.



## **Decision**

The December 19, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** June 8, 2016

## **How this Decision Affects Your Eligibility**

You remain eligible for an APTC of up to \$227.00 per month, and if you enroll in a silver-level plan, CSR.

You are ineligible for the Essential Plan.

You are ineligible for Medicaid.

## **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):**

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You can contact us in any of the following ways:

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- By mail at:  
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P.O. Box 11729  
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- By fax: 1-855-900-5557

## **Summary**

The December 19, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for an APTC of up to \$227.00 per month, and if you enroll in a silver-level plan, CSR.

You are ineligible for the Essential Plan.

You are ineligible for Medicaid.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

