



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

## Notice of Decision

Decision Date: August 03, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006664

[REDACTED]

Dear [REDACTED],

On August 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 1, 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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## Decision

Decision Date: August 03, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006664



## 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 \$158.00 per month in advance payments of the premium tax credit, effective March 1, 2016?

Did NYSOH properly determine that you were eligible for cost-sharing reductions?

## Procedural History

On January 31, 2016, NY State of Health (NYSOH) received your completed application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$158.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR), effective March 1, 2016.

Also on January 31, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were seeking a greater amount of APTC for which to afford a plan through NYSOH.

On February 1, 2016, NYSOH issued an eligibility determination notice based on the information contained in the January 31, 2016 application, stating that you were eligible to receive an APTC of up to \$158.00 per month and, if you selected

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a silver-level plan, eligible for CSR. This eligibility determination was effective March 1, 2016.

On August 1, 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 married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for yourself only.
- 3) The application that was submitted on January 31, 2016 listed annual household income of \$35,293.80, consisting of (1) \$7,800.00 you expect to earn from your employment with [REDACTED] during 2016, (2) \$315.00 per month you expect to receive in Social Security benefits, (3) \$8,559.00 your spouse expects to earn from his employment with [REDACTED] during 2016, and (4) \$1,262.90 per month your spouse expects to receive in Social Security benefits. You testified that this amount was correct when you submitted your application, and remains correct as of the hearing.
- 4) You testified, and your application reflects, that you will not be taking any deductions on your 2016 tax return.
- 5) You live in Monroe County, New York.
- 6) You testified that since your spouse is currently enrolled in both Medicare and Medicaid outside of NYSOH, you did not believe your eligibility should be determined by including your spouse's income.
- 7) You testified that without additional tax credits, the cost of plans available to you through NYSOH are unaffordable. You also testified that even if you could afford the lowest costing plan through NYSOH, the \$6,000.00 deductible applicable to such a plan nullifies any benefit of having the plan outside of a catastrophic event.

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 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,

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(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 \$158.00 per month.

The application that was submitted on January 31, 2016 listed an annual household income of \$35,293.80, which consisted of (1) \$7,800.00 you expect to earn from your employment with [REDACTED] during 2016, (2) \$315.00 per month you expect to receive in Social Security benefits, (3) \$8,559.00 your spouse expects to earn from his employment with [REDACTED], and (4) \$1,262.90 per month your spouse expects to receive in Social Security benefits.

The eligibility determination relied upon that information.

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

You reside in Monroe County, where the second lowest cost silver plan available for an individual through NYSOH costs \$368.59 per month.

An annual income of \$35,293.80 is 221.56% of the 2015 FPL for a two-person household. At 221.56% of the FPL, the expected contribution to the cost of the health insurance premium is 7.17% of income, or \$210.88 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 (\$368.59 per month) minus your expected contribution (\$210.88 per month), which equals \$157.71 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$158.00 per month in APTC.

The second issue 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 \$35,293.80 is 221.56% of the applicable FPL, NYSOH correctly found you to be eligible for CSR.

Since the February 1, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$158.00 per month in APTC and eligible for CSR, it is correct and is AFFIRMED.

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## **Decision**

The February 1, 2016 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** August 03, 2016

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

You remain eligible for an APTC of up to \$158.00 per month

You remain eligible for CSR.

## **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

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- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
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- By fax: 1-855-900-5557

## **Summary**

The February 1, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for an APTC of up to \$158.00 per month

You remain eligible for CSR.

## **Legal Authority**

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



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

