



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

Notice of Decision

Decision Date: June 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006733

[REDACTED]

Dear [REDACTED],

On June 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health February 3, 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 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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the NY State of Health (NYSOH) properly determine that you were not eligible to receive advance payments of the premium tax credit, effective March 1, 2016?

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

Procedural History

On February 2, 2016, the NYSOH received your updated application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to purchase a qualified health plan at full cost.

Also on February 2, 2016, an appeal was created after you contacted the NYSOH Account Review Unit. You appealed the level of financial assistance you were determined eligible to receive, and requested that your eligibility be redetermined to be found eligible for Medicaid.

On February 3, 2016, an eligibility determination notice was issued, based on your February 2, 2016 application, finding you newly eligible to purchase a qualified health plan at full cost effective March 1, 2016. The notice states that you were not eligible for advance premium tax credits because your application states that the primary tax filers in your house are married but not filing taxes jointly. You were determined not eligible for Medicaid because the household

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income you provided of \$43,128.00 was over the allowable income limit for that program.

On June 14, 2016, you had a telephone hearing with a Hearing Officer from the NYSOH Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide additional evidence of your certification of disability. On June 14, 2016, the NYSOH Appeal's Unit received a 6 pg. fax confirming your disability status and has been incorporated into the record as (Appellant's Exhibit 1). The record was then closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) Your February 2, 2016 application attested to the fact that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return. You testified that you were not sure how you would be filing your 2016 taxes.
- 2) You are seeking insurance for yourself.
- 3) You testified that you are married and reside with your spouse.
- 4) The application that was submitted on February 2, 2016 listed an annual household income of \$43,128.00, consisting of \$18,768.00 you receive from Social Security Disability, and \$24,360.00 your spouse receives in Social Security Disability. You testified that this amount was correct.
- 5) Your application states that you will not be taking any deductions on your 2016 tax return.
- 6) You testified, and provided documentation, that you are certified disabled.
- 7) Your NYSOH account indicates your case was referred to your Local Department of Social Services on October 24, 2015.
- 8) Your application states that you live in Saratoga 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 the Premium Tax Credit

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APTC is 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 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)).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
 - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
 - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

Medicaid

An individual is eligible for enrollment in Medicaid through NYSOH (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

In general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

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(45 CFR § 155.305(c); 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 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 (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse. (42 CFR § 435.603 (f)(4)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were not eligible to receive advance payments of the premium tax credit, effective March 1, 2016.

In the eligibility determination notice issued on February 3, 2016, NYSOH denied an advance premium tax credit to you because you indicated that you were married but did not plan to file a joint federal income tax return.

To qualify for advance premium tax credits, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

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According to the information in the record, and your testimony at the hearing, you are still married and reside with your spouse. You testified that you are not sure how you will file your taxes for the 2016 tax year, however your application indicates that that you will be filing as married filing separately.

There is an exception, as noted above, that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for advance premium tax credits. However, the record does not support a finding that you meet the necessary requirements for that exception.

Therefore, NYSOH was correct when it found that you were not eligible for advance premium tax credits due to your tax filing status.

Since the February 3, 2016, eligibility determination properly stated that, based on the information you provided, you were newly eligible to purchase a qualified health plan at full cost and not eligible for advance premium tax credits it is correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined that you were not eligible for Medicaid effective March 1, 2016.

The application that was submitted on February 2, 2016 listed an annual household income of \$43,128.00, consisting of \$18,768.00 you receive from Social Security Disability, and \$24,360.00 your spouse receives in Social Security Disability. You testified that this amount was correct.

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.” On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household.

Since your expected household income of \$43,128.00 is over the allowable income limit of \$21,984.00, you were properly determined ineligible for Medicaid benefits on a financial basis.

Therefore, the February 3, 2016 eligibility determination finding you ineligible for Medicaid on a MAGI based income is AFFIRMED.

The record indicates that your application has already been transferred to your Local Department of Social Services for a review of your Medicaid eligibility on a Non-MAGI basis.

Decision

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The February 3, 2016, eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 23, 2016

How this Decision Affects Your Eligibility

You remain eligible to purchase a qualified health plan at full cost effective March 1, 2016.

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 after the date 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 date 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:

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- By fax: 1-855-900-5557

Summary

The December 24, 2015, eligibility determination notice is AFFIRMED.

You remain eligible to purchase a qualified health plan at full cost effective March 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

