



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: AP000000006749



Dear [REDACTED],

On June 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's 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 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 NY State of Health (NYSOH) properly determine that you were conditionally eligible to enroll in Medicaid coverage, effective February 1, 2016?

Did NYSOH properly determine that you were not eligible to receive advance payments of the premium tax credit as of your February 2, 2016 application?

Procedural History

On November 16, 2015, you updated your NYSOH account.

On November 22, 2015, NYSOH issued an eligibility determination notice stating that you were newly conditionally eligible to receive up to \$187.00 per month in advance payments of the premium tax credit (APTC) and newly conditionally eligible to receive cost-sharing reductions (CSR), effective January 1, 2016. The notice stated that NYSOH was unable to verify the income amount you attested to in your application, and that you needed to submit documentation by February 14, 2016 to confirm your income, or you might lose your eligibility to enroll in coverage or to receive financial assistance.

On November 24, 2015, NYSOH issued a notice confirming your enrollment in an individual gold-level qualified health plan (QHP) effective January 1, 2016. The

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notice also stated that your APTC would be applied to your premium effective January 1, 2016.

On January 20, 2016, you uploaded two documents to your NYSOH account, consisting a paystub from a paycheck dated January 15, 2016, and a paystub dated January 1, 2016.

On January 29, 2016, NYSOH re-ran your eligibility, based on the income information that you uploaded on January 20, 2016.

On January 30, 2016, NYSOH issued an eligibility determination stating that you were eligible for Medicaid, effective January 1, 2016.

Also on January 30, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your QHP would end on January 31, 2016.

On February 2, 2016, NYSOH received your updated application for health insurance.

That same day, NYSOH prepared a preliminary eligibility with regard to the last application which stated that you were eligible for Medicaid, effective February 1, 2016.

Also on February 2, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were found eligible for Medicaid, and not for APTC.

On February 3, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective February 1, 2016, pending documentation of your income.

On June 15, 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) Your application reflects that, when you filed your February 2, 2016 application, you expected to file your 2016 taxes with a tax filing status of single and to claim no dependents. You testified that this was correct
- 2) The record reflects that your updated application on October 30, 2015 indicated that you were pregnant with one child, with an expected delivery

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date of March 19, 2016, on October 30, 2015. Your subsequent applications also included this information.

- 3) You are seeking insurance for yourself only.
- 4) The application that was submitted on February 2, 2016 listed annual household income of \$30,000.00, consisting of earned income from employment. 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 stated that you have outstanding medical bills from February 2016, when you had to see a specialist who does not take Medicaid. You testified that you were pregnant at that time, and could not switch doctors because you had a [REDACTED]
- 7) You testified that you have since enrolled in coverage outside NYSOH that started on March 1, 2016, but you are seeking to be found eligible for enrollment in a QHP with APTC for the month of February 2016
- 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

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)), NY Social Services 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 2016 FPL, which is \$16,020.00 for a two-person household (81 Federal Register 4036).

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).

People who receive or are eligible for Medicaid are not eligible for APTC since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan for 12 months, with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid Social Security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

For purposes of Medicaid eligibility, however, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

FPL for Pregnant Women

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

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 Federal Register 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).

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)).

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Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for Medicaid, effective February 1, 2016.

The application that was submitted on February 2, 2016 listed an annual household income of \$30,000.00, and the eligibility determination relied upon that information.

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. However, Medicaid can be provided to pregnant women with a MAGI that is at, or below, 223% of the FPL for the applicable family size.

Additionally, when calculating family size for Medicaid purposes, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver. On the date of your application, you were pregnant. Therefore, you were in a household of two for purposes of determining your eligibility.

On the date of your application, the relevant FPL was \$16,020.00 for a two-person household. Since \$30,000.00 is 187.27% of the 2016 FPL, NYSOH properly found you to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

The application that was submitted on February 2, 2016 listed an annual household income of \$30,000.00, and the eligibility determination relied upon that information.

The second issue under review is whether NYSOH properly found you to be not eligible to enroll in a QHP with APTC, and therefore not eligible for CSR, as of your February 2, 2016 application.

People who receive or are eligible for Medicaid are not eligible for APTC since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan for 12 months, with limited exceptions.

People who are ineligible for APTC are also ineligible for CSR.

Since you were eligible for Medicaid as of February 1, 2016, you were not eligible for APTC, and therefore not eligible for CSR.

Though you testified that you needed to meet with a specialist during February 2016 who did not take Medicaid, there is no exception in the law that allows you

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to choose the type of financial assistance that you will be eligible for. The only way you would have been eligible to remain in a QHP would have been for you to complete an application in which you did not request financial assistance, and then to enroll in a QHP at full cost, with no APTC.

Therefore, the February 3, 2016 eligibility determination, finding you conditionally eligible for Medicaid, was correct and is AFFIRMED.

Decision

The February 3, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 23, 2016

How this Decision Affects Your Eligibility

You were eligible for Medicaid as of February 1, 2016.

You were not eligible for APTC as of February 1, 2016, and were therefore also not eligible for CSR as of February 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 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.

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If You Have Questions about this Decision (Customer Service Resources):

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- By fax: 1-855-900-5557

Summary

The February 3, 2016 eligibility determination notice is AFFIRMED.

You were eligible for Medicaid as of February 1, 2016.

You were not eligible for APTC as of February 1, 2016, and were therefore also not eligible for CSR as of February 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

