



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

Notice of Decision

Decision Date: August 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006890



Dear [REDACTED],

On June 23, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's, February 6, 2016, eligibility determination and the cancellation of you and your spouse's NYSOH health insurance coverage.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

Legal Authority

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

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 the NY State of Health are:

Did New York State of Health (NYSOH) properly determine that you and your spouse were eligible to receive up to \$513.00 monthly of advance premium tax credits as of February 5, 2016?

Did the NYSOH properly determine that you and your spouse were eligible for cost-sharing reductions as of February 5, 2016?

Was you and your spouse's enrollment in your qualified health plan, CDPHP, properly cancelled because of non-payment of premiums?

Procedural History

On October 22, 2015, NYSOH issued a renewal notice that you and your spouse have been re-enrolled in your current health plan, CDPHP, with a start date of January 1, 2016. The notice stated that based on information from federal and state data sources, you were already enrolled in or eligible for a public insurance program. Based on that information, you and your spouse no longer qualify for financial assistance, but qualify to buy a health plan at full cost through NYSOH.

On November 22, 2015, NYSOH issued a notice stating that your HMO Copayment 30 Silver ST INN Dep25 will end effective December 31, 2015. However, you will be automatically renewed in the same plan for 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in HMO Copayment 30 Silver ST INN Dep25 (CDPHP), with a monthly premium of \$934.26, effective January 1, 2016.

On February 5, 2016, your NYSOH account was updated. NYSOH rendered a preliminary eligibility determination that you and your spouse are eligible for up to \$513.00 of advance premium tax credit and cost-sharing reductions, effective as of March 1, 2016.

Also on February 5, 2016, you spoke to the NYSOH Account Review Unit and requested an appeal insofar as the amount of financial assistance you and your spouse were determined eligible to receive.

On February 6, 2016, NYSOH issued an eligibility determination that you and your spouse are eligible for up to \$513.00 of advance premium tax credits and eligible for cost-sharing reductions, effective as of March 1, 2016.

Also on February 6, 2016, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in CDPHP with a monthly premium of \$421.26, effective March 1, 2016.

On June 23, 2016, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and the record was left open until June 27, 2016, to allow you to submit additional documentation.

On June 24, 2016, you faxed 17-pages of documents to the NYSOH Appeals Unit. Those documents has been marked as "Appellant Exhibit A" and made part of the record. The record is now complete and closed.

Findings of Fact

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

1. According to your February 5, 2016 application, you are applying for health insurance through NYSOH for yourself and your spouse.
2. According to your February 5, 2016 application, you plan on filing a 2016 federal income tax return with the tax status of married filing jointly, with your spouse, and will be claiming your child as a dependent on that tax return.
3. According to your February 5, 2016, application, your 2016 expected annual household income is \$45,136.00.

4. You testified that based on your expenses, you are seeking financial assistance to apply toward your health insurance premiums.
5. You currently reside in Columbia County, NY.
6. According to your NYSOH account and testimony, you and your spouse were enrolled in a Capital District Physicians' Health Plan, Inc. (CDPHP) qualified health plan in 2015.
7. On October 22, 2015, NYSOH issued a renewal notice that you and your spouse have been re-enrolled in your current health plan, CDPHP, for 2016. It stated that you were already enrolled in or eligible for a public insurance program and qualified to buy a health plan at full cost through NYSOH. Furthermore, that if a mistake has been made, you need to make changes to your account before December 15, 2015, to be effective January 1, 2016 ([REDACTED]).
8. On November 25, 2015, NYSOH issued an enrollment notice confirming you and your spouse's enrollment in HMO Copayment 30 Silver ST INN Dep25 (CDPHP), with a monthly premium of \$934.26, effective January 1, 2016 ([REDACTED]).
9. CDPHP issued your spouse a "Statement of Account" dated January 2, 2016. The statement indicates that your spouse was responsible to pay \$934.26 for your household's January 2016 health insurance premium (Appellant Exhibit A p. 2).
10. CDPHP issued your spouse a "Termination of Coverage Notice" dated January 18, 2016. The notice states that the \$934.26 health insurance premium had not been received for the month of January 2016. Furthermore, if the premium was not received by the end of the 30-day grace period, your coverage would be terminated effective December 31, 2015 (Appellant Exhibit A p. 4).
11. You testified that a representative from NYSOH directed you to contact NY Health Options in January 2016 to resolve your discrepancy with your increase in health insurance premiums.
12. You testified that you had a conference call with representatives from NY Health Options and CDPHP on or around January 29, 2016. It was during that call that you were directed by the representatives to contact NYSOH to resolve your discrepancy with the amount of your health insurance premiums.
13. CDPHP issued your spouse a "Statement of Account" dated February 2, 2016. The statement indicates that your spouse was responsible to pay

\$934.26 for your household's February 2016 health insurance premium, with total balance due of \$1,868.52 (Appellant Exhibit A p. 8).

14. CDPHP issued your spouse a "Termination Notice" dated February 3, 2016. The notice states that your coverage with CDPHP was terminated effective December 31, 2015 (Appellant Exhibit A p. 9).
15. According to your NYSOH account, you contacted NYSOH on February 5, 2016 and your account was updated.
16. You testified that you did not pay the January and February 2016 health insurance premiums to CDPHP because you could not afford to pay \$934.26 per month.
17. According to your NYSOH account, you and your spouse are currently enrolled in CDPHP and no cancellation notices have been issued.
18. You testified that you and your spouse are not enrolled in health coverage through NYSOH.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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)).

Advance Premium Tax Credit:

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2015 federal poverty level; (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 qualified health plan; 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)).

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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 the 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).

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 (see 26 CFR § 1.36B-3T(g)(1), (IRS Rev. Proc. 2014-62)).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested. (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

Cost-Sharing Reductions:

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

Appealable Issues:

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Legal Analysis

The first issue is whether NYSOH properly determined you eligible for up to \$513.00 monthly of APTC.

According to the record, you have a three-person tax household. You expect to file your 2016 federal income tax return with the tax status of married filing jointly, with your spouse, and will claim one dependent on that return.

You reside in Columbia County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$787.26 per month.

The February 6, 2015 eligibility determination was based on an annual household income of \$45,136.00, which was the amount entered as your total household's expected annual income for 2016.

An annual household income of \$45,136.00 equals 224.67% of the 2015 FPL for a three-person household. At 224.67% of the FPL, the expected contribution to the cost of the health insurance premium is 7.28% of income, or \$273.82 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$787.26 per month) minus your expected contribution (\$273.82 per month), which equals \$513.44 per month. Therefore, NYSOH correctly computed your APTC to be \$513.00 per month.

The second issue is whether NYSOH properly determined you eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 224.67% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

Since the February 6, 2016 eligibility determination properly stated that you are eligible for APTC of up to \$513.00 per month and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

The second issue under review is whether your health plan, through NYSOH, was properly terminated because of non-payment of premiums.

The record contains two separate notices from CDPHP that state that you and your spouse's coverage has been terminated effective December 31, 2015. However, your NYSOH account does not indicate that you and your spouse's coverage has been cancelled and a cancellation notice has not been issued.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) a determination of eligibility for an enrollment period (4) an eligibility determination for an exemption, (5) a failure by the Exchange to provide timely notice of an eligibility determination and (6) a denial of a request to vacate dismissal made by the New York State of Health Appeals Unit.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your health plan for non-payment of premiums.

However, your case has been RETURNED to NYSOH's Plan Management Unit to investigate whether you and your spouse are currently enrolled in health coverage through NYSOH.

Decision

The February 6, 2016, eligibility determination is AFFIRMED.

Your appeal regarding you and your spouse's coverage being cancelled for non-payment of premiums is DISMISSED.

Your case has been RETURNED to NYSOH's Plan Management Unit to investigate whether you and your spouse are currently enrolled in health coverage through NYSOH.

Effective Date of this Decision: August 24, 2016

How this Decision Affects Your Eligibility

You and your spouse remain eligible to receive an advance premium tax credit of up to \$513.00 per month and eligible for cost-sharing reductions.

Your case has been RETURNED to NYSOH's Plan Management Unit to investigate whether you and your spouse are currently enrolled in health coverage through NYSOH.

If You Disagree with this Decision (Appeal Rights)

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).

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 6, 2016, eligibility determination is **AFFIRMED**.

You and your spouse remain eligible to receive an advance premium tax credit of up to \$513.00 per month and eligible for cost-sharing reductions.

Your appeal regarding you and your spouse's coverage being cancelled for non-payment of premiums is **DISMISSED**.

Your case has been RETURNED to NYSOH's Plan Management Unit to investigate whether you and your spouse are currently enrolled in health coverage through NYSOH.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

