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

Notice of Decision

Decision Date: July 1, 2016

NY State of Health Account ID:
Appeal Identification Number: AP000000006945

Dear

On June 24, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's January 13, 2016 eligibility determination and enrollment confirmation 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: July 1, 2016

NY State of Health Account ID:
Appeal Identification Number: AP000000006945

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 and your spouse were eligible to receive up to $409.00 per month in advance payments of the premium tax credit, effective February 1, 2016?
>
> Did NY State of Health properly determine that you and your spouse were eligible for cost-sharing reductions, effective February 1, 2016?
>
> Did NY State of Health properly determine that your premium responsibility for your Silver level qualified health plan was $435.84 per month?

Procedural History

On January 12, 2016, NYSOH received your updated application for financial assistance.

On January 13, 2016, an eligibility redetermination notice was issued finding you and your spouse eligible to receive advance payment of the premium tax credit up to $409.00 per month as well as cost-sharing reductions effective February 1, 2016. This determination was based on your attested annual household income of $54,240.00.

Also on January 13, 2016, an enrollment confirmation notice was issued confirming you and your spouse's enrollment in a Silver level health plan with a premium responsibility of $435.84 per month starting February 1, 2016.

Also on February 8, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the amount of premium responsibility you were quoted by NYSOH.

On May 24, 2016, an eligibility determination notice was issued finding you and your spouse eligible to enroll in the Essential Plan effective July 1, 2016. You were asked to provide documentation to confirm your income before August 21, 2016. This determination was based on your attested annual household income of $33,960.00. You subsequently enrolled you and your spouse into an Essential plan effective July 1, 2016.

Also on May 24, 2016, a disenrollment notice was issued terminating you and your spouse's coverage in your Silver level qualified health plan effective June 30, 2016.

On June 24, 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 you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim two dependents on that tax return.

2) The application that was submitted on January 12, 2016, listed annual household income of $54,240.00, consisting of $33,960.00 you earn from your employment and $20,280.00 your spouse receives in earned income. You testified that this amount was correct.

3) You testified that your income has since changed, and you are now eligible and enrolled in the Essential Plan, which you are satisfied with.

4) Your application stated that you will not be taking any deductions on your 2015 tax return.

5) Your application states that you live in Queens County.

6) You are seeking insurance for you and your spouse.

7) The record reflects you enrolled you and your spouse in a Silver level qualified health plan on January 12, 2016 with a premium responsibility of

$435.84 per month, after application of your APTC, starting February 1, 2016.

8) You testified when you had contacted NYSOH to apply on January 12, 2016, you were given a premium quote of a lesser amount.

9) The record reflects a NYSOH representative reviewed the call from January 12, 2016 and it was determined that you were told that you would only be paying $69.00 a month for the plan you were thinking of selecting. This was "incorrect information" and the representative on the call that you were working with was misapplying the advance premium tax credits to the cost of the plan.

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).

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 $24,250.00 for a four -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).

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)).

Appealable Issues

An applicant has the right to appeal: (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, and (5) a denial of a request to vacate dismissal made by the NYSOH Appeals Unit (45 CFR § 155.505).

Legal Analysis

The first issue is whether NYSOH properly determined that you and your spouse were eligible for APTC of up to $409.00 per month, effective February 1, 2016.

The application that was submitted on January 12, 2016 listed an annual household income of $54,240.00, and the eligibility determination relied upon that information.

You are in a four-person household. You expect to file your 2016 income taxes as married filing jointly and will claim two dependents on that tax return.

You reside in Queens County, where the second lowest cost silver plan available for a couple through NYSOH costs $736.52 per month.

An annual income of $54,240.00 is 223.67% of the 2015 Federal Poverty Level (FPL) for a four-person household. At 223.67% of the FPL, the expected contribution to the cost of the health insurance premium is 7.24% of income, or $327.25 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 a couple in your county ($736.52 per month) minus your expected contribution ($327.25 per month), which equals $409.27 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your spouse to be eligible for up to $409.00 per month in APTC.

The second issue is whether you and your spouse were properly found eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of $54,240.00 is 223.67% of the applicable FPL, NYSOH correctly found you to be eligible for cost-sharing reductions.

Since the January 13, 2016, eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for up to $409.00 per month in APTC and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

The third issues is whether NYSOH properly determined that your premium responsibility for your Silver level qualified health plan was $435.84 per month.

The record reflects you enrolled you and your spouse in a Silver level qualified health plan on January 12, 2016 with a premium responsibility of $435.84 per month, after application of your APTC. You testified when you had contacted NYSOH to apply on January 12, 2016, you were given a premium quote of a lesser amount. The record reflects a NYSOH representative reviewed the call from January 12, 2016 and it was determined that you were told that you would only be paying $69.00 a month for the plan you were thinking of selecting. This was “incorrect information” and the representative on the call that you were working with was misapplying the advance premium tax credits to the cost of the plan.

The NYSOH Appeals Unit is only authorized to review an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions. It does not have the authority to determine the cost of the Silver level health plans offered by participating insurance companies, or the representative's quotes provided by employees of the NYSOH Marketplace.

Accordingly your appeal as to the amount of premium responsibility you were quoted is DISMISSED.

Decision

The January 13, 2016 eligibility determination notice, and enrollment confirmation notice were proper and are AFFIRMED.

Your appeal as to the amount of premium responsibility you were quoted is DISMISSED

Effective Date of this Decision: July 1, 2016

How this Decision Affects Your Eligibility

This decision does not change you and your spouse's eligibility or enrollment.

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 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).

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 January 13, 2016 eligibility determination notice, and enrollment confirmation notice were proper and are AFFIRMED.

Your appeal as to the amount of premium responsibility you were quoted is DISMISSED

This decision does not change you and your spouse's eligibility or enrollment.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

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