



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

Notice of Decision

Decision Date: August 09, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007121

[REDACTED]

Dear [REDACTED],

On July 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 4, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: August 09, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007121

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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that you were found eligible for advance payments of the premium tax credit and cost-sharing reductions, but ineligible for Medicaid, effective March 1, 2016?

Procedural History

On December 31, 2014, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective December 1, 2014.

On May 30, 2015, NYSOH issued a notice of enrollment confirming that you had been auto-enrolled in a Medicaid Managed Care (MMC) plan with coverage beginning February 1, 2015.

On January 13, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by February 15, 2016 or you might lose the financial assistance you were currently receiving.

On January 25, 2016, NYSOH received two applications for health insurance in which you were requesting financial assistance. Each of these applications reflected that you were separated from your spouse, and that your tax filing status was "Married Filing Single."

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On January 26, 2016, NYSOH issue an eligibility determination notice based on the last application submitted to NYSOH on January 25, 2016. It stated that you were newly eligible to purchase a qualified health plan (QHP) at full cost through NYSOH. The notice also stated that you were not eligible for an advance premium tax credit (APTC), cost-sharing reductions (CSR), or Medicaid. This eligibility determination was effective March 1, 2016.

Also on January 26, 2016, NYSOH issued a disenrollment notice stating that your MMC plan coverage would end effective February 29, 2016.

On February 3, 2016, NYSOH received four additional applications; in the last two, you added your husband to your account and attested to being married, with a tax filing status of "Married Filing Jointly."

On February 4, 2016, NYSOH issued an eligibility determination notice based on the last application submitted to NYSOH on February 3, 2016. It stated that you were eligible receive an APTC of up to \$129.00 per month; eligible for CSR, if you selected a silver-level plan; and ineligible for Medicaid. This eligibility determination was effective March 1, 2016.

On February 16, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that February 4, 2016 eligibility determination notice insofar as you were not found eligible for a greater amount of APTC or, in the alternative, some other form of financial assistance for health insurance through NYSOH.

On July 21, 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 support the following findings of fact:

- 1) You testified that while you and your spouse are physically separated, you are still married. There is also no formal separation agreement in place.
- 2) You testified that contrary to the last two applications submitted to NYSOH on February 3, 2016, you would be filing your taxes separately from your spouse for the 2016 tax year, as "married filing separately" with no claimed dependents.
- 3) You testified that when you called NYSOH to discuss your eligibility on or about February 3, 2016, a NYSOH representative suggested that you

attest in your application that you would be filing taxes jointly with your spouse in order to obtain access to APTC during 2016.

- 4) You testified that you have two sons, but they are grown and not seeking insurance through your NYSOH account.
- 5) You testified that you have been separated from your spouse for some time, but could not recall the precise date of that separation; it was at least one year.
- 6) You testified that you currently live with your sister.
- 7) You testified that, as reflected in the last application submitted to NYSOH on February 3, 2016, you are currently employed by [REDACTED] and that you earn approximately \$480.00 per week. You further testified that your earning rate is \$14.00 per hour, and can expect to work anywhere between 38 to 40 hours per week. However, you stated that an annual household income for yourself of \$24,960.00 was approximately accurate.
- 8) You testified that there is not much fluctuation in your earnings on a week to week basis.
- 9) You testified, and your application reflects, that you do not expect to take any deductions on your 2016 tax return.
- 10) You testified that you were seeking a greater amount of APTC so that you could afford a health plan through NYSOH or, in the alternative, some other source of health insurance through NYSOH.
- 11) You live in Richmond County, New York.

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

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 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 §

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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).

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)).

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)).

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Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NYSOH has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The sole issue under review is whether NYSOH properly determined that you were found eligible for advance payments of the premium tax credit, cost-sharing reductions, but ineligible for Medicaid, effective March 1, 2016

Based on an application submitted on February 3, 2016, you were found eligible to receive an APTC of up to \$129.00 per month; provided you selected a silver-level plan, eligible for CSR; and ineligible for Medicaid. This determination was effective March 1, 2016.

You attested in this application to being married, and that you anticipated filing taxes jointly with your spouse. At the hearing, however, you testified that you and your spouse have been separate for over a year, and you do not anticipate filing taxes jointly with your spouse. You further testified and only made that attestation in your application at the suggestion of a NYSOH representative if you wanted to receive APTC.

To qualify for APTC, 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.

According to the information in the record and your testimony at the hearing, you are still married to your spouse and have not obtained a decree of divorce or of separate maintenance. Also, you confirmed that you do not plan to file a joint federal income tax return with your spouse for the 2016 tax year.

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 APTC. However, the record does not support a finding that you meet the necessary requirements for that exception.

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Therefore, since NYSOH issued the February 4, 2016 eligibility determination notice based on clearly erroneous information in that you anticipated filing taxes jointly with your spouse for 2016, it is not supported by the record and must be RESCINDED.

Your case is RETURNED to NYSOH for a redetermination of your eligibility based on a one-person household in Richmond County with an anticipated tax-filing status of “married filing separately” with no claimed dependents and a household income of \$24,960.00.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

Decision

The February 4, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH for a redetermination of your eligibility based on a one-person household in Richmond County with an anticipated tax-filing status of “single” with no claimed dependents and a household income of \$24,960.00.

Effective Date of this Decision: August 09, 2016

How this Decision Affects Your Eligibility

You will receive a new determination confirming your eligibility for health insurance and financial assistance through NYSOH.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

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.

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

Summary

The February 4, 2016 eligibility determination notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH for a redetermination of your eligibility based on a one-person household in Richmond County with an anticipated tax-filing status of "single" with no claimed dependents and a household income of \$24,960.00.

You will receive a new determination confirming your eligibility for health insurance and financial assistance through NYSOH.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

