



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

Notice of Decision

Decision Date: September 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007182



Dear [REDACTED],

On July 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 18, 2015 eligibility determination notice and the February 19, 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 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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NY State of Health Account ID: [REDACTED]
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Issue

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

Did New York State of Health properly determine that you and your spouse were not eligible for advance premium tax credits, effective January 1, 2016?

Did New York State of Health properly determine that you and your spouse were eligible for advance premium tax credits effective April 1, 2016?

Procedural History

On November 23, 2015, you applied for health insurance coverage through New York State of Health (NYSOH). NYSOH rendered a preliminary eligibility determination that you and your spouse were temporarily eligible to enroll in a qualified health plan and receive up to \$287.00 of advance premium tax credits, effective January 1, 2016. NYSOH requested additional income documentation to confirm what was attested to in your application.

On November 23, 2015, you uploaded income documentation to your NYSOH account [REDACTED]).

On November 24, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse are conditionally eligible to receive up to \$287.00 per month in advance premium tax credits, effective as of January 1, 2016. The notice directed you to submit income documentation before February 21, 2016, to confirm the eligibility for the members of your household.

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Also on November 24, 2015, NYSOH issued an enrollment notice confirming that as of November 24, 2015, you and your spouse were enrolled in Ind align, Gold, NS, OON, Dep25, tiered benefit (BlueCross BlueShield) of Western New York with a plan enrollment start date of January 1, 2016. The notice stated that your monthly premium would be \$577.88.

On December 17, 2015, your NYSOH account was updated.

On December 18, 2015, NYSOH issued an eligibility determination notice that you and your spouse were newly eligible to purchase a qualified health plan at full cost through NYSOH.

On December 19, 2015, NYSOH issued an enrollment notice confirming that on December 18, 2015, you and your spouse were enrolled in BlueCross Blue Shield, with a monthly premium of \$864.88, with a plan enrollment start date of January 1, 2016.

On February 18, 2016, your NYSOH account was updated.

Also on February 18, 2016, you spoke with the NYSOH Account Review Unit and requested an appeal insofar as the date that you and your spouse's financial assistance was effective.

On February 19, 2016, NYSOH issued an eligibility determination notice that you and your spouse were newly eligible to receive up to \$287.00 of advance premium tax credits, effective as of April 1, 2016.

Also on February 19, 2016, NYSOH issued an enrollment notice confirming that on February 18, 2016, you and your spouse were enrolled in BlueCross BlueShield of Western New York, with a monthly premium of \$577.88.

On July 20, 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) On November 24, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse are conditionally eligible to receive up to \$287.00 per month in advance premium tax credits. The notice directed you to submit income documentation before February 21, 2016, to confirm the eligibility for the members of your household [REDACTED].

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- 2) On November 23, 2016, a letter from [REDACTED] was uploaded to your NYSOH account. It states that your Long Term Disability (LTD) claim was approved, with a maximum benefit payable of \$3,305.00 per month. Furthermore, 100% of your LTD benefits were taxable [REDACTED]).
- 3) Four statement of earnings from [REDACTED] were uploaded to your NYSOH account. The statements indicate that your spouse received:
 - (a) \$450.00 in gross income, with year-to-date (YTD) gross income of \$19,693.50 on October 23, 2015 [REDACTED]);
 - (b) \$474.00 in gross income, with YTD gross income of \$20,167.50 on October 30, 2015 [REDACTED]);
 - (c) \$507.00 in gross income, with YTD gross income of \$20,674.50 on November 6, 2015 [REDACTED]);
 - (d) \$480.00 in gross income, with YTD gross income of \$21,154.50 [REDACTED]).
- 4) On December 18, 2015, NYSOH issued an eligibility determination notice that you and your spouse were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2016. The notice stated that you and your spouse were ineligible for advance premium tax credits because the income provided was above the allowable income limit [REDACTED].
- 5) According to your NYSOH account and testimony, you expect to file a 2016 federal income tax return with the tax status of married filing jointly and will not claim any dependents on that return.
- 6) According to your February 18, 2016 NYSOH application, you attested that you expect to be issued \$39,660.00, and your spouse expects to be issued \$12,450.00 in 2016.
- 7) On February 19, 2016, NYSOH issued an eligibility determination notice that you and your spouse were newly eligible to receive up to \$287.00 of advance premium tax credits, effective as of April 1, 2016 [REDACTED].
- 8) You testified that you paid \$577.88, to Empire BlueCross BlueShield, for your January and February health insurance premiums.
- 9) You testified that you contacted Empire BlueCross BlueShield in March 2016 to pay your March health insurance premium and was told by the representative that you had outstanding balances for January and

February 2016. Furthermore, you paid a higher premium for January, February and March 2016, so your health plan would not be cancelled.

- 10) You testified that you want your advance premium tax credits to be effective January 1, 2016.

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

Applicable Law and Regulations

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)).

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 \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of APTC for a part of the benefit year, NYSOH must recalculate the amount of APTC in such a manner as to account for any advance payments already made (or not made) on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the overall benefit year (45 CFR § 155.330(g)).

Any change resulting from redeterminations during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15th of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination. (45 CFR § 155.330(f)(1) and (2). New York has specified that changes made after the 15th of a given month will take effect the month after the following month.

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End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible to enroll in qualified health plan at full cost, effective January 1, 2016.

According to the record, you expect to file a 2016 federal income tax return, with the tax status of married filing jointly, and will not claim any dependents on that return. Therefore, you and your spouse are a two-person tax household.

On November 24, 2015, NYSOH issued a notice directing you to submit income documentation before February 21, 2016, to confirm you and your spouse's eligibility for financial assistance.

On November 23, 2015, income documentation was uploaded to your NYSOH account (████████████████████).

A letter from ████████████████████ was uploaded to your NYSOH account stating that your LTD claim was approved, with a maximum benefit payable of \$3,305.00 per month.

Four statement of earnings from ████████████████████ were uploaded indicating that your spouse received: \$450.00 in gross income on October 23, 2015; \$474.00 in gross income on October 30, 2015; \$507.00 in gross income on November 6, 2015, \$480.00 in gross income on November 13, 2016.

Based on the documentation submitted, you and your spouse's financial eligibility was recalculated. Your expected income was calculated to be $(\$3,305.00 \times 12)$ \$39,660, and your spouse income was calculated to be $(\$450.00 + \$474.00 + \$507.00 + \$480.00 \times 13)$ \$24,843.00. Therefore, your household income was \$64,503.00.

A two-person household may qualify for an advance premium tax credit (APTC) if the annual household income does not exceed \$62,920.00 (400% 2015 FPL).

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An annual household income of \$64,503.00 equals 404.92% of the 2015 federal poverty level (FPL) for a two-person household. Therefore, because your 2016 expected yearly income exceeded the income limit, NYSOH correctly determined you and your spouse ineligible for APTC, effective January 1, 2016.

The December 18, 2015, eligibility determination is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your eligibility for APTC was effective April 1, 2016.

The record shows that on February 18, 2016, you updated the information in your NYSOH account. You attested that your expected 2016 is \$39,660.00, and your spouse's expected 2016 income is \$12,450.00. Based on your attestations, NYSOH recalculated your household income to be $(\$39,660.00 + \$12,450.00)$ \$52,110.00.

When an individual changes information in their application after the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the second following month.

Therefore, NYSOH's February 19, 2016 eligibility determination notice stating that you and your spouse are eligible for up to \$287.00 per month in advance premium tax credits, effective April 1, 2016 is AFFIRMED.

However, when APTC is recalculated mid-year, NYSOH is required to prorate monthly amounts to reflect APTC that has already been received, to ensure that the APTC you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2016 tax year. It appears that the NYSOH did not do this. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received APTC for the entire 12 months of the year.

Decision

The December 18, 2015 eligibility determination notice is AFFIRMED.

The February 19, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the NYSOH for a recalculation of the APTC you are entitled to from this April 1, 2016 forward, by dividing your annual expected tax credit by 9 months of 2016, instead of 12.

Effective Date of this Decision: September 8, 2016

How this Decision Affects Your Eligibility

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).

You and your spouse were not eligible for advance premium tax credits, effective January 1, 2016.

NYSOH properly started your advance premium tax credits, effective April 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.

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

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Summary

The December 18, 2015 eligibility determination notice is AFFIRMED.

The February 19, 2016 eligibility determination notice is AFFIRMED.

You and your spouse were not eligible for advance premium tax credits, effective January 1, 2016.

NYSOH properly started your advance premium tax credits, effective April 1, 2016.

Your case is RETURNED to the NYSOH for a recalculation of the APTC you are entitled to from this April 1, 2016 forward, by dividing your annual expected tax credit by 9 months of 2016, instead of 12.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

