



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

Notice of Decision

Decision Date: August 12, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007238

[REDACTED]

Dear [REDACTED],

On July 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 18, 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 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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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 were eligible to purchase a qualified health plan at full cost effective April 1, 2016?

Did NY State of Health properly determine that you were not eligible for Medicaid?

Procedural History

On February 17, 2016, NY State of Health (NYSOH) received your updated application for financial assistance.

On February 18, 2016, an eligibility determination was issued finding you eligible to purchase a qualified health plan at full cost effective April 1, 2016. You were further determined ineligible for Medicaid because the household income you provided of \$32,884.00 was over the allowable income limit for that program. You were also determined ineligible to receive advanced premium tax credits because the tax filer in your house are married but not filing taxes jointly.

Also on February 19, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination as it related to the denial of financial assistance and ineligibility to receive Medicaid.

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.

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Findings of Fact

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

- 1) At the time of your February 17, 2016 application, you attested that you expect to file your 2016 taxes with a tax filing status of married filing single and that you had no dependents.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on February 17, 2016, listed annual household income of \$32,884.00, consisting of income you earn from employment. You testified this was correct, and that your spouse does not receive an income.
- 4) You further testified that your spouse no longer resides with you as he left for Europe to seek health insurance.
- 5) You provided income documentation, that your monthly income for January was \$165.00 on January 6, 2016, \$819.50, on January 13, 2016, and \$814.00 on January 20, 2016. (See Documents: [REDACTED]
[REDACTED] [REDACTED])
- 6) You also provided a copy of your Unemployment Insurance Benefit Statement showing a claim effective date of October 26, 2015, and a weekly benefit rate of \$404.00 per month (See Document: [REDACTED]) You did not provide documentation showing the release of those payments to you during the month of January, 2016.
- 7) Your application states you will be receiving 8 weeks of Unemployment Insurance Benefits.
- 8) Your application states that you will be taking \$3,246.00 in deductions on your 2015 tax return, you testified this was correct.
- 9) You testified during your hearing that you are now pregnant.
- 10) Your application states that you live in New York, County.

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

Applicable Law and Regulations

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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).

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).

Additionally, a tax filer who is married must generally file a joint return with his or her spouse in order to qualify for APTC (45 CFR § 155.305(f), 45 CFR § 155.310(d); 26 CFR § 1.36B-2).

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

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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, and \$20,160.00 for a three-person household. (81 Fed. Reg. 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).

Legal Analysis

The first issue is whether NY State of Health (NYSOH) properly determined that you were eligible to purchase a qualified health plan at full cost effective April 1, 2016.

After NYSOH received your completed application for financial assistance on February 17, 2016, an eligibility determination notice was issued on February 18, 2016, finding you eligible to purchase a qualified health plan at full cost effective April 1, 2016. The determination stated you did not qualify for Advance Premium Tax Credits (APTC) because the tax filers in your house were married but not filing taxes jointly.

A tax filer who is married must generally file a joint return with his or her spouse in order to qualify for APTC.

An individual will be treated as not married at the close of the taxable year if the individual is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or meets all of the following criteria: files a separate return from his/her spouse and maintains his or her household as the primary home for a qualifying child; pays more than one half of the cost of keeping up his or her home for the tax year; and does not have his or her spouse as a member of the household during the last six months of the tax year.

You testified that you are married, and that your spouse is not currently living with you as he has traveled to Europe to seek health insurance.

Because you are married, and not filing a joint tax return with your spouse, and further do not hold your residence as a primary residence for a dependent child, you do not qualify for advance premium tax credits at this time.

Therefore February 18, 2016, eligibility determination notice finding you eligible to purchase a qualified health plan at full cost and ineligible for advance premium tax credits is correct and is AFFIRMED.

The second issue is whether NYSOH properly determined that you were ineligible for Medicaid.

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. On the date of your application, the relevant FPL was \$22,108.00 for a two-person household. Since \$32,884.00 is 205.26% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You provided income documentation, that your monthly income for January was \$165.00 on January 6, 2016, \$819.50, on January 13, 2016, and \$814.00 on January 20, 2016. (See Documents: [REDACTED] [REDACTED] [REDACTED])

You also provided a copy of your Unemployment Insurance Benefit Statement showing a claim effective date of October 26, 2015, and a weekly benefit rate of \$404.00 per month (See Document: [REDACTED]) You did not provide documentation showing the release of those payments to you during the month of January, 2016.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which at the time of your application was \$1,843.00 per month for a two-person household. Since the documentation you provided shows that you earned \$1,798.20 but did not indicate if you received Unemployment Insurance payments for that month, it cannot be determined at this time if you qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the February 18, 2016, eligibility determination properly stated that, based on the information you provided, you were not eligible for APTC and eligible to purchase a qualified health plan effective April 1, 2016, it is AFFIRMED.

During the hearing, you testified that you are now pregnant. This may have an effect on your eligibility for financial assistance through NYSOH. Therefore, we will RETURN your case to NYSOH to conduct outreach to you in order to assist you in updating your application to indicate that you are pregnant and your expected date of delivery.

Decision

The February 18, 2016, eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to conduct outreach to you in order to assist you in updating your application to indicate that you are pregnant and your expected date of delivery. Your eligibility should then be redetermined in accordance with the updated information you provide.

Effective Date of this Decision: August 12, 2016

How this Decision Affects Your Eligibility

You remain eligible to purchase a qualified health plan at full cost.

You testified that you are now pregnant, your case is being sent back to NYSOH to give you the opportunity to update your application in accordance with this new information.

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

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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 18, 2016, eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to conduct outreach to you in order to assist you in updating your application to indicate that you are pregnant and your expected date of delivery. Your eligibility should then be redetermined in accordance with the updated information you provide.

You remain eligible to purchase a qualified health plan at full cost.

You testified that you are now pregnant, your case is being sent back to NYSOH to give you the opportunity to update your application in accordance with this new information.

Legal Authority

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A Copy of this Decision Has Been Provided To:

