



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

Notice of Decision

Decision Date: August 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007295

[REDACTED]

Dear [REDACTED],

On July 25, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 23, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision Date: August 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007295

[REDACTED]

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 receive up to \$159.00 per month in advance payments of the premium tax credit (APTC), effective April 1, 2016?

Did NY State of Health properly determine that you were eligible for cost-sharing reductions (CSR), effective April 1, 2016?

Did NY State of Health properly determine that you were not eligible for Medicaid, effective April 1, 2016?

Did NY State of Health properly determine that you were not eligible for the Essential Plan, effective April 1, 2016?

Procedural History

On February 22, 2016, NY State of Health (NYSOH) received your updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the application, stating that you were eligible for APTC of up to \$159.00 per month, effective April 1, 2016, and eligible for CSR if you enrolled in a silver level qualifying health plan, effective April 1, 2016.

Also on February 22, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to the level of financial assistance for which you were determined eligible.

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On February 23, 2016, NYSOH issued an eligibility determination notice based on the information contained in the February 22, 2016 application, stating that you were eligible for APTC of up to \$159.00 per month, effective April 1, 2016, and eligible for CSR if you enrolled in a silver level qualifying health plan, effective April 1, 2016. That same notice stated that you were not eligible for Medicaid because your household income was over the allowable limit. That same notice stated that you were not eligible for the Essential Plan because, in order to be eligible for the Essential Plan, you must not be eligible to enroll in other coverage, and have an annual income below \$31,860.00.

On July 25, 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 that you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will not claim any dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) You testified that you are appealing because you want to be eligible for the Essential Plan, as you feel that the cost of coverage with the level of APTC and CSR you were found eligible for is not affordable.
- 4) The application that was submitted on February 22, 2016 listed annual household income of \$36,990.00, consisting of \$8,000.00 you earn from your employment and \$28,990.00 your spouse receives in wages and social security. You testified that this amount was correct.
- 5) Your application states that you will not be taking any deductions on your 2016 tax return and you confirmed this in your testimony.
- 6) Your application states that you live in Madison 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).

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 \$15,930.00 for a two-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, 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).

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)).

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 2015 FPL, which is \$21,984.00 for a two-person household (80 Fed. Reg. 3236, 3237).

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), N.Y. Soc. Serv. Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL for the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). 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).

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Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$159.00 per month.

The application that was submitted on February 22, 2016 listed an annual household income of \$36,990.00 and the eligibility determination relied upon that information.

You are in a 2-person household. You expect to file your 2016 income taxes as married filing jointly and will not claim any dependents on that tax return.

You reside in Madison County, where the second lowest cost silver plan available for an individual through NYSOH costs \$391.98 per month.

An annual income of \$36,990.00 is 232.20% of the 2015 FPL for a two-person household. At 232.20% of the FPL, the expected contribution to the cost of the health insurance premium is 7.55% of income, or \$232.73 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 an individual in your county (\$391.98 per month) minus your expected contribution (\$232.73 per month), which equals \$159.25 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$159.00 per month in APTC.

The second issue is whether you 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 \$36,990.00 is 232.20% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions if you enroll in a silver level plan.

The third 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 \$15,930.00 for a two-person household. Since \$36,990.00 is 232.20% of the 2015 FPL, NYSOH properly found you ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

The final issue is whether NYSOH properly determined that you were ineligible for the Essential Plan, effective April 1, 2016.

In the application that was submitted on February 22, 2016, NYSOH stated that you were not eligible for the Essential Plan because your income exceeded the limit for that program.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since an annual household income of \$36,990.00 is 232.20% of the 2015 FPL, NYSOH properly found you ineligible for the Essential Plan as of your February 22, 2016 application.

Since the February 23, 2016 eligibility determination notice properly stated that, based on the information you provided, you were eligible for up to \$159.00 per month in APTC effective April 1, 2016, eligible for cost-sharing reductions effective April 1, 2016, not eligible for Medicaid, and not eligible for the Essential Plan it is correct and is AFFIRMED.

Decision

The February 23, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: August 2, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$159.00 in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid.

You are ineligible for the Essential Plan.

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.

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 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 23, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$159.00 in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid.

You are ineligible for the Essential Plan.

Legal Authority

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A Copy of this Decision Has Been Provided To:

