



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

Notice of Decision

Decision Date: July 26, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007391

[REDACTED]

Dear [REDACTED]

On July 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 25, 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007391



Issues

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

Did NY State of Health properly determine that your spouse was eligible to receive \$0.00 per month in advance payments of the premium tax credit, effective April 1, 2016?

Did NY State of Health properly determine that your spouse was not eligible for cost-sharing reductions?

Did NY State of Health properly determine that your spouse was not eligible for the Essential Plan?

Did NY State of Health properly determine that your spouse was not eligible for Medicaid?

Procedural History

On January 24, 2015, NY State of Health (NYSOH) issued an eligibility determination stating that your spouse was eligible for Medicaid, effective January 1, 2015.

On January 15, 2016, NY State of Health (NYSOH) issued a notice that it was time to renew your household's 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 your household would qualify for financial help paying for your health coverage, and that you

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needed to update your account by February 15, 2016, or you might lose the financial assistance you were currently receiving.

No updates were made to your account by February 15, 2016.

On February 18, 2016, NYSOH issued a notice of eligibility determination stating that your spouse was eligible to purchase a qualified health plan (QHP) at full cost, effective March 1, 2016. The notice further stated that she did not qualify for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits because you did not respond to the renewal notice and did not complete your renewal within the required timeframe.

On February 24, 2016, you updated your application for health insurance.

That same day, NYSOH prepared a preliminary eligibility determination with regard to the last application of February 24, 2016, stating your spouse was eligible to receive \$0.00 in APTC, effective April 1, 2016, based on an annual household income of \$58,170.00.

Also on February 24, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your spouse's eligibility for financial assistance.

On February 25, 2016, NYSOH issued an eligibility determination notice based on the information contained in the February 24, 2016 application, stating that your spouse was eligible for \$0.00 in APTC, effective April 1, 2016. The notice also stated that she was not eligible for cost-sharing reductions (CSR) and not eligible for Medicaid or the Essential Plan.

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 supports the following findings of fact:

- 1) You testified that you and your spouse expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for your spouse.
- 3) The application that was submitted on February 24, 2016 listed annual household income of \$58,170.00, consisting of \$46,000.00 you earn from

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your employment, \$12,000.00 you receive in Social Security Retirement benefits, and \$170.00 your spouse receives in earned income.

- 4) You testified that this amount was correct, as far as your income is concerned. You testified that your spouse stopped working in February 2016.
- 5) You testified that your monthly income for February 2016 was \$3,900.00 in earned income, and approximately \$1,000.00 in Social Security Retirement benefits.
- 6) Your application states that you will not be taking any deductions on your 2016 tax return, and you confirmed this in your testimony.
- 7) You testified that you have a lot of monthly expenses, including a \$3,500.00 mortgage payment, and that you cannot afford to pay your spouse's full insurance premium.
- 8) Your application states that you live in Suffolk County.

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

Applicable Law and Regulations

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

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

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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 300% but less than 400% of the 2015 FPL, the expected contribution is 9.66% 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)).

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), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on 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).

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 2016 FPL, which is \$ 16,020.00 for a two-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).

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Legal Analysis

The first issue under review is whether NYSOH properly determined that your spouse was eligible for an APTC of \$0.00 per month.

The application that was submitted on February 24, 2016 listed an annual household income of \$58,170.00, and the eligibility determination relied upon that information.

Your spouse is in a two-person household. She expects to file her 2016 income taxes as married filing jointly and will claim no dependents on that tax return.

You reside in Suffolk County, where the second lowest cost silver plan available for an individual through NYSOH costs \$385.23 per month.

During the hearing, you testified that the income amount you provided in your application was correct. However, you testified that you have a lot of living expenses, including a \$3,500.00 monthly mortgage payment.

Since the Internal Revenue Service rules do not allow living expenses to be deducted from the calculation of your adjusted gross income, they cannot be deducted when NYSOH computes your modified adjusted gross income for APTC purposes. Therefore, the Marketplace correctly determined your household income to be \$58,170.00.

An annual income of \$58,170.00 is 365.16% of the 2015 FPL for a two-person household. At 365.16% of the FPL, the expected contribution to the cost of the health insurance premium is 9.66% of income, or \$468.27 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 (\$385.23 per month) minus your expected contribution (\$468.27 per month), which equals a negative number. Therefore, rounding to the nearest dollar, NYSOH correctly determined your spouse to be eligible for \$0.00 per month in APTC.

The second issue under review is whether your spouse was properly found ineligible 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 \$58,170.00 is 365.16% of the applicable FPL, NYSOH correctly found your spouse to be ineligible for cost sharing reductions.

The third issue under review is whether NYSOH properly determined that your spouse was not eligible to enroll in the Essential Plan.

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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 \$58,170.00 is 365.16% of the 2015 FPL, NYSOH properly found you to be ineligible for the Essential Plan.

The fourth issue under review is whether NYSOH properly determined that your spouse was not eligible 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 \$16,020.00 for a two-person household. Since \$58,170.00 is 363.11% of the 2016 FPL, NYSOH properly found your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

To be eligible for Medicaid on a monthly income basis, your spouse would need to meet the non-financial criteria and have an income no greater than 138% of the FPL for the month of February 2016, which is \$1,842.30 per month. Since you testified that your monthly household income for February 2016 was a total of \$4,900.00, your spouse does not qualify for Medicaid on the basis of monthly income as of the date of her application.

Since the February 25, 2016 eligibility determination properly stated that, based on the information you provided, your spouse was eligible for \$0.00 per month in APTC, ineligible for cost-sharing reductions, ineligible for the Essential Plan, and ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

The February 25, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: July 26, 2016

How this Decision Affects Your Eligibility

Your spouse remains eligible for \$0.00 in APTC.

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Your spouse is ineligible for cost-sharing reductions.

Your spouse is ineligible for the Essential Plan.

Your spouse is ineligible for Medicaid.

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:
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- By fax: 1-855-900-5557

Summary

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The February 25, 2016 eligibility determination notice is AFFIRMED.

Your spouse remains eligible for \$0.00 in APTC.

Your spouse is ineligible for cost-sharing reductions.

Your spouse is ineligible for the Essential Plan.

Your spouse is ineligible for Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

