



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

Notice of Decision

Decision Date: August 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007703

[REDACTED]

Dear [REDACTED]

On August 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 2, 2016 eligibility redetermination.

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 Date: August 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007703

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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 receive up to \$79.00 per month in advance payments of the premium tax credit, effective March 1, 2016?

Did NY State of Health properly determine that you were not eligible for cost-sharing reductions?

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

Procedural History

According to your NY State of Health (NYSOH) account, you were eligible for Medicaid as of March 1, 2015 and enrolled in a Medicaid Managed Care plan with Healthfirst as of April 1, 2015

On January 12, 2016, NYSOH Issued a renewal notice informing you that you must select a different plan for the next coverage year between January 16, 2016 and February 15, 2016.

On January 20, and February 2, 2016, NYSOH received your completed applications and you were redetermined eligible to receive up to \$79.00 in advance payments of the premium tax credit (APTC) effective March 1, 2016.

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Eligibility redetermination notices to this effect were issued on January 21, 2016 and February 3, 2016. Those notices also stated that you were not eligible to receive cost sharing reductions or Medicaid because the household income you provided of \$36,000.00 was over the allowable income limits for each of these programs, and you were not eligible for the Essential Plan because you were eligible to enroll in other coverage.

On March 4, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of those eligibility redetermination insofar as you could not afford to pay the monthly premium.

Thereafter in July 2016, you changed your household composition to include your spouse and child and your household's eligible was redetermined and enrollment was confirmed for August 1, 2016 start dates, provided you paid the premiums on time.

On August 17, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. A Mandarin Interpreter (ID # [REDACTED]) assisted throughout the hearing. You testified at the hearing that you are also concerned about having to pay an IRS tax penalty for not having health insurance during 2016, which testimony was permitted and received. 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) According to your NYSOH account on January 20, 2016, you expected to file your 2016 taxes with a tax filing status of married filing single and would not be claiming any dependents on that return.
- 2) The applications that were submitted on January 20, 2016 and February 2, 2016 listed annual household income of \$36,000.00 in gross earnings from your employment. You testified that this amount was an estimate and was correct.
- 3) Your application states that you will not be taking any deductions on your 2016 tax return.
- 4) Your application states that you live in Queens County, New York.
- 5) You testified that you are seeking a tax exemption from the IRS tax penalty for not having health insurance for yourself from March 1, 2016 through at least July 31, 2016, because you could not afford to pay for

health insurance because you were supporting yourself here and your family in China.

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

Applicable Law and Regulations

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 \$11,770.00 for a one-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 in 2016 is 9.66% of the household

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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 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036).

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 first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$79.00 per month.

The application that was submitted on January 20, 2016 listed an annual household income of \$36,000.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2016 income taxes as married filing single because your family was in China and were not going to claim any dependents at the time.

You reside in Queens County, where the second lowest cost silver plan available for an individual through NYSOH costs \$368.26 per month.

An annual income of \$36,000.00 is 305.86% of the 2015 FPL for a one-person household. At 305.86% of the FPL, the expected contribution to the cost of the health insurance premium is 9.66% of income, or \$289.80 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 (\$368.26 per month) minus your expected contribution (\$289.80 per month), which equals \$78.46 per month. Therefore, rounding up to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$79.00 per month in APTC.

The second issue is whether you were 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 \$36,000.00 is 305.86% of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

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

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applicable family size. On the date of your application, the relevant FPL for 2016 was \$11,880.00 for a one-person household. Since \$36,000.00 is 303.03% 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.

Since the January 21, 2016 and February 3, 2016 notices of eligibility redetermination properly stated that, based on the information you provided, you were eligible for up to \$79.00 per month in APTC, ineligible for cost-sharing reductions, and ineligible for Medicaid, the notices were correct and are AFFIRMED.

You testified that you could not afford to pay the monthly premium and went without coverage as of March 1, 2016 because you were supporting your family in China. 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 direction.

The record indicates that your position that you could not afford to pay the monthly premiums for health insurance as of March 1, 2016, resulted in you being without insurance coverage for part of the 2016 coverage year. During the hearing, you testified that you are concerned about receiving a tax penalty as a result of being without coverage.

Sometimes after an appeal decision, an appellant can claim another type of exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings **AND** your appeal was eventually successful. However, this decision affirms NYSOH's eligibility redetermination notices issued on January 21, 2016 and February 3, 2016, such that your appeal was not successful at this level.

Notwithstanding, if you wish, you must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

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Decision

The January 21, 2016 and February 3, 2016 notices of eligibility redetermination are AFFIRMED.

This decision does not affect any subsequent determinations issued by NYSOH.

Effective Date of this Decision: August 22, 2016

How this Decision Affects Your Eligibility

You were eligible to receive up to \$79.00 in APTC as of March 1, 2016.

You are ineligible to receive cost-sharing reductions.

You are ineligible for Medicaid.

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 direction.

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

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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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 21, 2016 and February 3, 2016 notices of eligibility redetermination are AFFIRMED.

This decision does not affect any subsequent determinations issued by NYSOH.

You were eligible to receive up to \$79.00 in APTC as of March 1, 2016.

You are ineligible to receive cost-sharing reductions.

You are ineligible for Medicaid.

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 direction.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

