



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

Notice of Decision

Decision Date: August 19, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007709



Dear [REDACTED]

On August 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 4, 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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Decision

Decision Date: August 19, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP00000007709



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you were eligible to receive up to \$133.00 per month in advance payments of the premium tax credit, effective April 1, 2016?

Procedural History

On March 5, 2016, NY State of Health (NYSOH) issued a notice of eligibility redetermination, based on your March 4, 2016 updated application, that stated you were eligible to receive up to \$133.00 in advance payments of the premium tax credit, effective April 1, 2016.

Also on March 5, 2016, you spoke with a representative from NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you needed more financial assistance to be able to afford health insurance coverage.

On August 17, 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:

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- 1) You testified that you expect to file your 2016 taxes with a tax filing status of single and will not be claiming any dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on March 4, 2016 listed annual household income of \$31,999.76 in gross earnings from your employment. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return. You testified that this information was correct.
- 5) You testified that you cannot afford to pay monthly health insurance premiums with APTC of \$133.00, because your net income is used to pay rent, utilities, and other essential living needs.
- 6) Your application states that you reside in Kings County, New York.

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

Applicable Law and Regulations

Modified Adjusted Gross Income

NYSOH 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

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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 250% but less than 300% of the 2015 FPL, the expected contribution in 2016 is between 8.18% and 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).

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 issue under review is whether NYSOH properly determined that you were eligible for an APTC of up to \$133.00 per month.

The application that was submitted on March 4, 2016 listed an annual household income of \$31,999.76. Although you testified that you use your net income to pay your basic living needs, such as rent and utilities, these expenses are not allowable deductions in computing adjusted gross income, which is the basis for modified adjusted gross income (MAGI-based income) used in determining an individual's eligibility for financial assistance. Therefore, the eligibility determination was based upon your reported gross income of \$31,999.76.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as single and will not be claiming any dependents on that tax return.

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

An annual income of \$31,999.76 is 271.88% of the 2015 FPL for a one-person household. At 271.88% of the FPL, the expected contribution to the cost of the health insurance premium is 8.83% of income, or \$235.46 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 (\$235.46 per month), which equals \$132.80 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$133.00 per month in APTC.

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You testified that you cannot afford to pay a monthly premium even with APTC because your income is used for your living expenses. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website (www.healthcare.gov) for direction.

Decision

The March 5, 2016 notice of eligibility redetermination is **AFFIRMED**.

Effective Date of this Decision: August 19, 2016

How this Decision Affects Your Eligibility

You are eligible to receive up to \$133.00 per month in APTC.

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.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 5, 2016 notice of eligibility redetermination is **AFFIRMED**.

You are eligible to receive up to \$133.00 per month in APTC.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, 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:

