



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

Notice of Decision

Decision Date: August 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007720

[REDACTED]

Dear [REDACTED],

On August 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 27, 2016 eligibility determination notice.

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 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).

This page intentionally left blank.



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

Decision

Decision Date: August 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007720



Issues

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

Did NY State of Health (NYSOH) properly determine that you were eligible to receive up to \$197.00 per month in advance payments of the premium tax credit, as well as cost-sharing reductions, effective April 1, 2016?

Did NYSOH properly determine that you were not eligible for Essential Plan?

Procedural History

On November 16, 2015, NYSOH received your completed application for health insurance in which you attested to a tax filing status of "head of household" and that you would be claiming your daughter as a dependent on your 2016 tax return.

On November 22, 2015, NYSOH issued an eligibility determination based on the information contained within the November 16, 2015 application. It stated that you were eligible to enroll in the Essential Plan, effective January 1, 2016.

On November 25, 2015, NYSOH issued a notice of enrollment confirming your selection of an Essential Plan as of November 16, 2015. The notice further confirmed that your Essential Plan coverage would begin effective January 1, 2016.

On December 2, 2015, NYSOH received an update to your application for health insurance. You again attested to a tax filing status of "head of household" and that you would be claiming your daughter as a dependent on your 2016 tax return

On December 6, 2015, NYSOH issued an eligibility determination based on the information contained within the December 2, 2015 application. It stated that you were eligible to enroll in the Essential Plan, effective January 1, 2016.

On February 26, 2016, NYSOH received an update to your application for health insurance. In this application you again attested to filing as "head of household," but that you would not be claiming your daughter as a dependent during the 2016 tax year.

On February 27, 2016, NYSOH issued an eligibility determination based on the information contained within the February 26, 2016 application. The notice stated that you were found newly eligible to receive an advance premium tax credit of up to \$197.00 per month and, if you selected a silver-level plan, newly eligible for cost-sharing reductions. You were also found ineligible for the Essential Plan. This eligibility determination was effective April 1, 2016.

Also, on February 27, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end effective March 31, 2016 because you were no longer eligible to remain enrolled in that plan.

On March 7, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the February 27, 2016 eligibility determination notice insofar as you were not found eligible for the Essential Plan.

On March 9, 2016, NYSOH received copies of (1) a Judgement of Divorce, [REDACTED] (as amended), (2) Final Order On Petition For Modification of Order of Custody And Made By Supreme Court, [REDACTED] (3) Separation and Settlement Agreement; Stipulation of Settlement, [REDACTED], (4) 1040 U.S. Individual Tax Return for 2015, and (5) your letter, dated March 7, 2016, stating, among other things, the reasons you believe NYSOH erred in its determination that you were no longer eligible for the Essential Plan.

On August 23, 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, and the record reflects, that you expect to file your 2016 taxes with a tax filing status of “head of household.” Contrary to what you attested to in your November 16, 2015 and December 2, 2015 applications, you will not be claiming you daughter as a dependent on your 2016 tax return.
- 2) You testified, and Article 33 (Dependency Exemption) of the Separation and Settlement Agreement; Stipulation of Settlement reflects, that you are only entitled to claim your daughter as a dependent on your tax return during odd numbered years. Your ex-spouse claims your daughter as a dependent during even numbered years, including 2016.
- 3) You are seeking insurance for yourself only.
- 4) You testified, and the record reflects, that you have full custody of your daughter, and that she lives with you at your residence.
- 5) The application that was submitted on February 26, 2016 listed annual household income of \$27,300.00, which consists entirely of earnings you received from your employment with [REDACTED]. You testified that this amount was reasonably correct.
- 6) Your application states that you will not be taking any deductions on your 2016 tax return.
- 7) You live in Queens County, New York.
- 8) You testified that you were seeking to remain enrolled in the Essential Plan during 2016 since the qualified health plans available to you are unaffordable given your current monthly expenses. You further testified that you did not feel the February 27, 2016 determination notice was fair since your eligibility for affordable health insurance hinged on whether you were able to claim your daughter as a dependent on your tax return, regardless of the fact that you are supporting her and she is living in your home.

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 200% 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 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).

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,

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).

(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 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 \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

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 \$197.00 per month and eligible for CSR, effective April 1, 2016.

The application that was submitted on February 26, 2016 listed an annual household income of \$27,300.00 and the eligibility determination relied upon that information.

You expect to file your 2016 income taxes as “head of household” since your daughter is a qualified individual; however, you will not claim her as a dependent on that tax return. This means you are in a one-person household.

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 \$27,300.00 is 231.95% of the 2015 FPL for a one-person household. At 231.95% of the FPL, the expected contribution to the cost of the health insurance premium is 7.54% of income, or \$171.54 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 (\$171.54 per month), which equals \$196.72 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$197.00 per month in APTC.

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$27,300.00 is 231.95% of the applicable FPL, NYSOH correctly found you to be eligible for CSR.

The last issue is whether NYSOH properly determined that you were not eligible for the Essential Plan.

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 \$11,770.00 for a one-person household. Since an annual household income of \$27,300.00 is 231.95% of the 2015 FPL, NYSOH properly found you to be ineligible for the Essential Plan.

The change in your eligibility is due to the change in your household size. Once you disclosed that you would not be claiming your daughter as a dependent on your tax returns your household size was decreased to one for the purpose of determining eligibility for financial assistance for health insurance.

Since the February 27, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$197.00 per month in APTC, eligible for CSR, and ineligible for the Essential Plan, it is correct and is **AFFIRMED**.

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).

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 an application.

Decision

The February 27, 2016 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: August 30, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$197.00 per month in APTC and, if you select a silver-level plan, eligible for CSR.

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.

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 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).

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 27, 2016 eligibility determination notice is **AFFIRMED**.

You remain eligible for up to \$197.00 per month in APTC and, if you select a silver-level plan, eligible for CSR.

You are ineligible for the Essential Plan.

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 an application.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

