



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

Notice of Decision

Decision Date: January 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008055

[REDACTED]
[REDACTED]
[REDACTED],

On December 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: January 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008055

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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 provide a timely determination of your, your spouse's, and your child's Medicaid ineligibility as of May 1, 2016?

Did NY State of Health properly determine that you, your spouse, and your child were eligible to receive up to \$546.00 per month in advance payments of the premium tax credit, effective May 1, 2016?

Did NY State of Health properly determine that you, your spouse, and your child were not eligible for Medicaid?

Procedural History

On February 9, 2016, NY State of Health (NYSOH) received your application for financial assistance with your health insurance.

On February 10, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from State and Federal data sources. You were asked to submit income documentation for your household by February 25, 2016.

On February 23, 2016 and February 27, 2016, income documentation was uploaded to your NYSOH account.

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On March 2, 2016, NYSOH reviewed this income documentation and determined that further income documentation was required.

On March 3, 2016, NYSOH issued a notice stating that the income documentation you submitted was insufficient to resolve the inconsistency in your account. This same notice advised that additional proof of income was required.

On March 15, 2016, additional income documentation was uploaded to your NYSOH account.

On March 18, 2016, you contacted NYSOH and updated your family's application for financial assistance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you, your spouse, and your child were eligible to receive tax credits (APTC) of up to \$546.00 per month to help pay for the cost of insurance, effective May 1, 2016.

Also on March 18, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your family's eligibility for Medicaid for February 2016, March 2016, April 2016, and May 2016.

On March 19, 2016, NYSOH issued a notice of eligibility determination stating that you, your spouse, and your child were eligible for up to \$546.00 per month in APTC, effective May 1, 2016.

On December 20, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for 14 days to allow you time to submit supporting documentation. No documentation was received within the allotted time. The record is now closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are seeking Medicaid for yourself, your spouse, and your child for the months of February 2016, March 2016, April 2016, and May 2016.
- 2) You testified that your spouse lost his job and last worked on February 9, 2016. You testified that your spouse began working for his new employer on April 14, 2016, and that you, your spouse, and your child have employer sponsored health insurance through your spouse's new employer as of May 13, 2016.

- 3) You testified that your daughter incurred medical expenses during the period for which your family had no health insurance.
- 4) You testified that you reside in Kings County.
- 5) You testified that you plan to file your 2016 tax return as married filing jointly and will claim one dependent, your child, on that return.
- 6) You testified that you did not have any income for 2016.
- 7) You testified that your child will file a tax return for 2016. You further testified that your child's annual income for 2016 is approximately \$800.00. You explained that your child does not have steady work, and is called in to work, when work is available. You testified that when she does work, she is paid on a biweekly basis. You testified that you were not sure if your child had any earnings in March 2016 or April 2016.
- 8) The application that was submitted on February 9, 2016 listed an annual expected income for your spouse of \$0.00. The application that was submitted on March 18, 2016 listed an annual expected income for your spouse of \$62,605.67. You testified that the annual expected income for your spouse is currently \$62,605.67.
- 9) You testified that your spouse received only one paycheck in February 2016, which was dated February 19, 2016.
- 10) You testified that you were not sure if you would be taking any deductions on your 2016 tax return. You testified that if you were taking any deductions for 2016, they would be similar to the deductions you took on your 2015 tax return.
- 11) You testified that your spouse did not receive any unemployment insurance benefits while he was out of work.
- 12) You testified that your spouse had no income in March of 2016.
- 13) You submitted a letter dated February 19, 2016 written and signed by yourself, stating that you have not been employed for 23 years, that your spouse lost his job on February 9, 2016, and that you had no source of income at that time.
- 14) You submitted a letter of separation from your spouse's employer dated February 9, 2016, which states that his last day of employment was February 9, 2016, and that his final paycheck will reflect earnings through February 9, 2016 as well as any unused current year accruals.

- 15) You submitted an unemployment insurance monetary benefit determination from the Department of Labor, which indicates that it is not a decision on your spouse's eligibility for unemployment benefits, but such weekly benefit would be \$425.00.
- 16) You submitted a letter for your child's employer stating that her weekly hours fluctuate, and that her hourly rate is \$9.00.
- 17) You submitted four paystubs for your child. The first is for pay date December 16, 2015 for a gross pay amount of \$105.75; the second is for pay date December 30, 2015 for a gross pay amount of \$78.75 and shows a gross year to date amount of \$648.00; the third is for pay date February 10, 2016 for a gross pay amount of \$58.50; the fourth is for pay date February 24, 2016 for a gross pay amount of \$22.50 and shows a gross year to date amount of \$81.00.
- 18) At the hearing held on December 20, 2016 the Hearing Officer requested that you submit your spouse's last paystub for his former job, his first paystub for his new job, your child's paystubs for March 2016 and April 2016, the denial letter from the Department of Labor regarding unemployment insurance benefits, and the portion of your 2015 tax return showing your deductions, by January 3, 2017. These documents were not submitted.

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

Applicable Law and Regulations

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

Timely Notice of Medicaid Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

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).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

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 \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

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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).

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 \$20,160.00 for a three-person household (80 Fed. Reg. 3236, 3237).

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).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

With regard to eligibility for financial assistance through the Marketplace, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a

child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(1)(A)). For the 2016 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Revenue Procedure 2014-61).

Unearned income is generally all income other than salaries, wages and other amounts received as pay for work actually performed, including the taxable part of Social Security and pension payments (IRS Publication 929, pg. 15).

For the purposes of determining a person's eligibility for financial assistance for health insurance through the Marketplace, the term "MAGI" 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)).

Legal Analysis

The first issue is whether NYSOH has provided you, your spouse, and your child with timely determination of your, your spouse's, and your child's Medicaid ineligibility as of May 1, 2016.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

You created your NYSOH account on February 9, 2016. The income amount that was entered into this application did not match Federal and State data sources. As a result, NYSOH asked that you submit additional documentation to confirm your household income.

On February 23, 2016 and February 27, 2016, you uploaded income documentation for yourself, your spouse, and your child.

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).

On March 2, 2016, NYSOH reviewed this income documentation and determined it was insufficient to resolve the inconsistency in your account. Sufficient income documentation was never submitted to your account.

On March 18, 2016, you updated your family's application for financial assistance with health insurance. Therefore, your application was considered complete as of March 18, 2016, for purposes of issuing an eligibility determination.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

NYSOH issued an eligibility determination notice on March 19, 2016 that stated you, your spouse, and your child were ineligible for Medicaid, and eligible for APTC effective May 1, 2016. Since NYSOH issued an eligibility determination one day from the date your application was considered complete, the March 19, 2016 eligibility determination was timely.

The second issue is whether NYSOH properly determined that you, your spouse, and your child were eligible for an APTC of up to \$546.00 per month.

The application that was submitted on March 18, 2016 listed an annual household income of \$62,605.67 and the eligibility determination relied upon that information.

Household income for the purposes of calculating a person's eligibility for financial assistance to help pay for the costs of health insurance through the NYSOH, consists of the Modified Adjusted Gross Income of all tax filers in a household who are required to file a tax return.

You are in a three-person household. You expect to file your 2016 income taxes as married filing jointly and will claim one dependent on that tax return.

A dependent will be required to file a tax return in 2016 if their earned income is greater than \$6,300.00.

The income documentation you submitted for your child as well as your testimony reflect that your child will have earned income less than \$6,300.00 in 2016. Therefore, your child's income was not included in your household income for the purpose of calculating your, your spouse's, and your child's eligibility for financial assistance with health insurance.

You reside in Kings County, where the second lowest cost silver plan available for a couple and one dependent through NYSOH costs \$1,049.90.

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An annual income of \$62,605.67 is 311.63% of the 2015 FPL for a three-person household. At 311.63% of the FPL, the expected contribution to the cost of the health insurance premium is 9.66% of income, or \$503.98 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 a couple and one dependent in your county (\$1,049.90 per month) minus your expected contribution (\$503.98 per month), which equals \$545.92 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you, your spouse, and your child to be eligible for up to \$546.00 per month in APTC.

The third issue is whether NYSOH properly determined that you, your spouse, and your child 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 \$20,160.00 for a three-person household. Since \$62,605.67 is 310.54% of the 2016 FPL, NYSOH properly found you, your spouse, and your child to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$2,319.00.00 per month.

However, you failed to submit complete documentation of your household income, or lack thereof, for February 2016, March 2016, April 2016, and May 2016. Therefore, your, your spouse's, and your child's eligibility for Medicaid on the basis of monthly income cannot be determined.

Since the March 19, 2016 eligibility determination properly stated that, based on the information you provided, you, your spouse, and your child were eligible for up to \$546.00 per month in APTC, and ineligible for Medicaid, it is correct and is **AFFIRMED**.

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 an application.

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).

Decision

The March 19, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 10, 2017

How this Decision Affects Your Eligibility

You, your spouse, and your child remain eligible for up to \$546.00 in APTC.

You, your spouse, and your child are 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

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 19, 2016 eligibility determination notice is AFFIRMED.

You, your spouse, and your child remain eligible for up to \$546.00 in APTC.

You, your spouse, and your child are 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:

