



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: AP000000008060

[REDACTED]

Dear [REDACTED],

On August 22, 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 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: AP000000008060

[REDACTED]

Issues

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

Did New York State of Health (NYSOH) properly determine that that your eldest son was eligible to receive \$0.00 per month in advanced payments of the premium tax credit, effective May 1, 2016?

Did NYSOH properly determine that your eldest son was eligible for cost-sharing reductions?

Did NYSOH properly determine that that your eldest son was not entitled to a special enrollment period?

Procedural History

On November 25, 2015 NYSOH issued an eligibility determination notice stating that your eldest son was eligible to enroll in Child Health Plus with a \$9.00 per month premium, effective January 1, 2016.

On December 24, 2015 NYSOH issued an eligibility redetermination notice stating that your eldest son was newly eligible to receive \$0.00 per month in advance premium tax credits, and if he enrolled in a silver-level qualified health plan, cost-sharing reductions. This eligibility was effective February 1, 2016. The notice further stated that your eldest son was no longer eligible for Child Health Plus because he would turn 19 on January 24, 2016 and Child Health Plus is only available to children who are 18 years or younger.

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 December 24, 2015 NYSOH issued a disenrollment notice stating that your eldest son's coverage in his Child Health Plus plan would end effective January 31, 2016 because he was no longer eligible to remain enrolled.

On March 18, 2016, NYSOH received your completed application for health insurance. That day, a preliminary eligibility determination was made stating that your eldest son was eligible to receive \$0.00 per month in advanced payments of the premium tax credit and that your eldest son was eligible to receive cost sharing reductions. You also attempted to enroll your eldest son into a plan that day but were unable to do so.

Also on March 18, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination as it related to advanced payments of the premium tax credit for your eldest son, cost sharing reductions and your request for a special enrollment period for your eldest son.

On March 19, 2016 NYSOH issued an eligibility determination notice, based on the application submitted on March 18, 2016, stating your eldest son was eligible to receive \$0.00 in advance premium tax credits, and eligible to receive cost-sharing reductions, effective May 1, 2016. The notice further stated that your eldest son did not qualify to select a health plan outside of the open enrollment period.

On August 22, 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 expect to file your 2016 taxes with a tax filing status of single. You will claim two dependents on that tax return.
- 2) You are appealing only your eldest son's eligibility.
- 3) The application that was submitted on March 18, 2016 listed annual household income of \$42,497.52, consisting of \$42,497.52 you earn from your employment. You testified this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return.
- 5) Your application states that you live in New York County.

- 6) The record indicates that your son was terminated from his Child Health Plus plan as of January 31, 2016.

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 \$ 20,090.00 for a 3 -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).

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)).

Enrollment in a Qualified Health Plan

NY State of Health (NYSOH) must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)(1)).

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015, and extended through January 31, 2016 (45 CFR §155.410(e)(2)).

Special Enrollment Periods

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

(1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:

(a) Health insurance considered to be minimum essential coverage;

- (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
 - (c) Pregnancy-related coverage; or
 - (d) Medically needy coverage.
- (2) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care; or
 - (3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status; or
 - (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or
 - (5) The enrollee or dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee; or
 - (6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or has a change in eligibility for cost-sharing reductions; or
 - (7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move; or
 - (8) The qualified individual is an Indian, as defined by section 4 of the Indian Health Care Improvement Act, and may enroll in a QHP or change from one QHP to another one time per month; or
 - (9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide;

(45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)).

Legal Analysis

The first issue is whether NYSOH properly determined that your eldest son was eligible for an APTC of up to \$0.00 per month.

The application that was submitted on March 18, 2016 listed an annual household income of \$42,497.52 and the eligibility determination relied upon that information.

Your eldest son is in a three-person household. You expect to file your 2016 income taxes as single and will claim two dependents on that tax return.

Your eldest son resides in New York County, where the second lowest cost silver plan available for a Child Only Plan through NYSOH costs \$162.63 per month.

An annual income of \$42,497.52 is 211.54% of the 2015 FPL for three-person household. At 211.54% of the FPL, the expected contribution to the cost of the health insurance premium is 6.82% of income, or \$241.52 per month.

The maximum amount of advanced premium tax credit that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for Child Only Plan in your county (\$162.63 per month) minus your expected contribution (\$241.52 per month). Since your expected contribution exceeds the cost of the second lowest cost-silver plan, NYSOH properly determined that your eldest son would be eligible for \$0.00 per month in advance premium tax credits.

The second issue is whether your eldest son was properly found eligible 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 \$42,497.52 is 211.54% of the applicable FPL, NYSOH correctly found your eldest son to be eligible for cost sharing reductions.

Since the March 19, 2016 eligibility determination properly stated, based on the information you provided, your eldest son was eligible for up to \$0.00 per month in APTC and eligible for cost-sharing reductions, it is correct and is **AFFIRMED**.

The final issue under review is whether NYSOH properly denied your eldest son a special enrollment period, effective March 18, 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. The record indicates that you submitted a complete application for your eldest son on March 18, 2016. Therefore, your eldest son did not complete his application during the open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in, or change to another health plan offered in NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

The record indicates that your eldest son was no longer eligible for Child Health Plus as of January 24, 2015 because Child Health Plus is only available to children who are 18 years or younger. On December 24, 2015 NYSOH issued a disenrollment notice stating that your eldest son's coverage in his Child Health Plus plan would end effective January 31, 2016 because he was no longer eligible to remain enrolled.

The loss of previous insurance coverage is considered a triggering life event for purposes of qualifying for a special enrollment period.

When a triggering life event occurs, the qualified individual has sixty days from the date of that event to select a qualified health plan.

Sixty days from January 31, 2016 was March 31, 2016; therefore, you would have qualified to select a qualified health plan outside of the open enrollment period until March 31, 2016. You contacted NYSOH on March 18, 2016 to enroll your eldest son to coverage which was within 60 days of a triggering event.

Therefore, NYSOH's March 19, 2016 eligibility determination stating that your eldest son does not qualify to select a health plan outside of the open enrollment period for 2016 is MODIFIED to reflect that your eldest son is eligible for a special enrollment period until 60 days from the date of this decision.

Decision

The March 19, 2016 eligibility determination notice that your eldest son is eligible for \$0.00 in advance premium tax credit and is eligible for a cost sharing reduction is AFFIRMED.

The March 19, 2016 eligibility determination is MODIFIED to reflect that your eldest son is eligible for a special enrollment period until 60 days from the date of this decision.

Your case is RETURNED to NYSOH to assist your eldest son in enrolling into a plan for 2016 health coverage.

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).

Effective Date of this Decision: August 30, 2016

How this Decision Affects Your Eligibility

Your eldest son remains eligible for up to \$0.00 in APTC.

Your eldest son remains eligible for cost sharing reductions

Your eldest son qualifies for a special enrollment period.

Your eldest son has 60 days from the date of this decision to enroll into a 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 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

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).

- 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 that your eldest son is eligible for \$0.00 in advanced premium tax credit and cost sharing reductions is **AFFIRMED**.

Your eldest son remains eligible for up to \$0.00 in APTC.

Your eldest son remains eligible for cost sharing reductions.

The March 19, 2016 eligibility determination is **MODIFIED** to reflect that your eldest son is eligible for a special enrollment period until 60 days from the date of this decision.

Your case is **RETURNED** to NYSOH to assist your eldest son in enrolling into a plan for 2016 health coverage.

Your eldest son qualifies for a special enrollment period.

Your eldest son has 60 days from the date of this decision to enroll into a plan.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

