



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

Notice of Decision

Decision Date: November 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008536

[REDACTED]

Dear [REDACTED]

On October 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 15, 2016 eligibility determination notice, September 4, 2016 eligibility determination notice, and September 5, 2016 disenrollment 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 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).

This page intentionally left blank.



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

Decision

Decision Date: November 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008536

[REDACTED]

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 conditionally eligible to receive up to \$141.00 per month in advance payments of the premium tax credit, effective April 1, 2016?

Did NYSOH properly determine that you were conditionally eligible for cost-sharing reductions?

Did NY State of Health properly determine that your daughter's coverage through Child Health Plus was terminated as of September 30, 2016?

Procedural History

On December 11, 2015, NYSOH issued an eligibility determination notice based on the information contained in your December 10, 2015 application, stating that you were conditionally eligible to receive advance payments of the premium tax credit (APTC) of up to \$141.00 per month and, if you selected a silver-level plan, conditionally eligible for cost-sharing reductions (CSR). Your eligibility was conditional pending NYSOH's receipt of documentation to prove your income before March 9, 2016. The notice also stated that your daughter was found conditionally eligible to enroll in Child Health Plus (CHP) for a cost of \$15.00 per month. Her eligibility was also conditional pending NYSOH's receipt of documentation to prove your income before February 8, 2016.

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 18, 2015, NYSOH issued a notice of enrollment confirming your selection of a qualified health plan (QHP) as of December 17, 2015 at a premium rate of \$299.05 per month, after applying the maximum APTC of \$141.00, with such coverage to begin effective January 1, 2016. This notice also confirmed your selection of your daughter's CHP plan as of December 17, 2015 at a premium rate of \$15.00 per month. Her coverage also was also scheduled to begin as of January 1, 2016, provided her premium was timely received.

On December 22, 2015, NYSOH received copies of four earning statement issued to you by your employer, [REDACTED], between November 28, 2015 and December 21, 2015.

On January 14, 2016, NYSOH issued a cancellation notice stating that your daughter's CHP coverage was cancelled effective January 1, 2016 for non-payment of premiums.

On March 14, 2016, NYSOH redetermined your household's eligibility based on the information contained in your application as of December 10, 2015.

On March 15, 2016, NYSOH issued an eligibility redetermination notice stating that you remained conditionally eligible for APTC of up to \$141.00 per month and, if you selected a silver-level plan, conditionally eligible for CSR, effective April 1, 2016. Again, your eligibility was conditional pending NYSOH's receipt of documentation to prove your income before March 9, 2016. This notice also stated that your daughter was newly eligible to purchase a QHP at full cost, effective April 1, 2016.

On March 31, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the March 15, 2016 eligibility determination notice insofar as you were found eligible for an APTC of only \$141.00 per month.

On June 28, 2016, NYSOH received a revised application for health insurance.

On June 29, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the June 28, 2016 application. The notice stated that you were conditionally eligible for an APTC of up to \$141.00 per month and, if you selected a silver-level plan, conditionally eligible for CSR, effective August 1, 2016. Your eligibility was conditional pending NYSOH's receipt of documentation to prove your income by September 26, 2016. This notice also stated that your daughter was eligible for CHP for a limited time at a premium rate of \$15.00 per month. However, you were requested to provide proof of income by August 27, 2016.

Also on June 29, 2016, NYSOH issued a notice of enrollment confirm your selection of a QHP as of June 28, 2016 at a premium rate of \$299.05 per month, after applying the maximum APTC of \$141.00, with such coverage to begin

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 January 1, 2016. This notice also confirmed your selection of your daughter's CHP plan as of June 28, 2016 at a premium rate of \$15.00 per month. Her coverage also was also scheduled to begin as of August 1, 2016.

On September 3, 2016, NYSOH redetermined your household's eligibility based on the information contained in your application as of June 28, 2016.

On September 4, 2016, NYSOH issued an eligibility redetermination notice stating that you were conditionally eligible for APTC of up to \$141.00 per month and, if you selected a silver-level plan, conditionally eligible for CSR, effective October 1, 2016. Your eligibility was conditional pending NYSOH's receipt of documentation to prove your income before September 26, 2016. This notice also stated that your daughter was newly eligible to purchase a QHP at full cost, effective October 1, 2016.

On September 5, 2016, NYSOH issued a disenrollment notice confirming that your daughter's CHP coverage was terminated effective September 30, 2016.

On October 6, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) the 4 most recent earning statements issued to you and (2) records reflecting the basis of an anticipated \$3,000.00 deduction. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On October 14, 2016, you provided a screenshot reflecting the four most recent earning statements issued to you by your employer between September 16, 2016 and October 7, 2016 to the Appeals Unit through your NYSOH online account. However, you did not provide documentation reflecting the basis of an anticipated \$3,000.00 deduction prior to October 21, 2016.

Since at least part of the documents requested were not received by the Hearing Officer, the record was closed on October 21, 2016.

Findings of Fact

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

- 1) You testified, and your application reflects, that you expect to file your 2016 taxes with a tax filing status of head of household. You will claim your daughter as your sole dependent on that tax return.
- 2) You are seeking insurance for yourself and your daughter under your NYSOH 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).

- 3) The application that was submitted on December 10, 2015 listed annual household income of \$36,590.00, consisting of \$39,590.00 you expect to earn from your employment with [REDACTED] (a/k/a [REDACTED]) and offset by an anticipated deduction of \$3,000.00 related to your business expenditures. You testified that you are employed by [REDACTED] on an independent contractor relationship.
- 4) You provided documentation to NYSOH on December 22, 2015 that you received \$775.75 per week in gross wages on November 28, 2015, December 4, 2015, December 13, 2015 and December 21, 2015. You provided additional documentation on October 14, 2016 reflecting that you received \$775.75 per week in gross wages on September 16, 2016, September 23, 2016, September 30, 2016, and October 7, 2016.
- 5) You live in Queens County, New York.
- 6) You testified that you were seeking a greater amount of APTC with which to afford a QHP through NYSOH. You further testified that your monthly expenditures and the cost of living make plans through the NYSOH mostly unaffordable.
- 7) You testified that you were not aware that your daughter had been disenrolled from her CHP plan as of September 30, 2016, and you would like to appeal that determination as well.

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 15,930.00 for a two-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, (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)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income between 138% and 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

In an analysis of Child Health Plus 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 was \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

The State of New York has elected to provide presumptive eligibility to children if the child appears eligible for coverage but is missing one or more documents needed to verify eligibility. A child may be enrolled presumptively for two months while the missing documentation is collected (see e.g. 42 CFR § 457.355, SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$141.00 per month.

The application that was submitted on December 10, 2015 listed an annual household income of \$36,590.00, which consisted of \$39,590.00 you expect to earn from your employment with [REDACTED] (a/k/a [REDACTED]) and offset by an anticipated deduction of \$3,000.00 related to your business expenditures. The eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2016 income taxes as head of household and will claim your daughter as your sole dependent on that tax return.

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

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).

An annual income of \$36,590.00 is 229.69% of the 2015 FPL for a two-person household. At 229.69% of the FPL, the expected contribution to the cost of the health insurance premium is 7.46% of income, or \$227.47 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 (\$227.47 per month), which equals \$140.79 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$141.00 per month in APTC.

The second issue is whether you were properly found conditionally eligible for CSR.

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$36,590.00 is 229.69% of the applicable FPL, NYSOH correctly found you to be eligible for CSR.

The third issue is whether NYSOH properly determined that your daughter's coverage through Child Health Plus was terminated as of September 30, 2016.

The record reflects that on June 28, 2016, your daughter was found eligible to enroll in CHP for a limited time, pending receipt of income documentation by August 27, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their income documentation is satisfactory.

If NYSOH cannot verify an individual's income documentation, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of two months from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on June 29, 2016 you were advised that your daughter's eligibility was only conditional, and that you needed to confirm your income by submitting documentation before August 27, 2016. The August 27, 2016 deadline to submit the requested documentation was less than two months from the date you would have been made aware of the inconsistency.

Since NYSOH failed to provide you with the required two-month period for you to submit the requested documentation, NYSOH's September 4, 2016 eligibility determination notice and September 5, 2016 disenrollment notice are **RESCINDED**. Your case is **RETURNED** to NYSOH to reinstate your daughter into her CHP plan for the months of October and November 2016, and to

redetermine her eligibility based on the new earning statements received on October 14, 2016.

Decision

The March 15, 2016 eligibility determination notice is AFFIRMED.

The September 4, 2016 eligibility determination notice is RESCINDED

The September 5, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your daughter into their Child Health Plus plan for the months of October and November 2016, and to redetermine her eligibility based on the new earning statements received on October 14, 2016.

Effective Date of this Decision: November 3, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$141.00 per month of APTC.

You are eligible for CSR.

Your daughter's CHP coverage is reinstated for the months of October and November 2016.

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

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).

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

Summary

The March 15, 2016 eligibility determination notice is **AFFIRMED**.

The September 4, 2016 eligibility determination notice is **RESCINDED**

The September 5, 2016 disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your daughter into their Child Health Plus plan for the months of October and November 2016, and to redetermine her eligibility based on the new earning statements received on October 14, 2016.

You remain eligible for up to \$141.00 per month of APTC, as well as for CSR.

Your daughter's CHP coverage is reinstated for the months of October and November 2016.

Legal Authority

We are sending you this notice in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

