



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

Notice of Decision

Decision Date: November 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008685

[REDACTED]

Dear [REDACTED]

On October 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 15, 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: November 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008685



Issues

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

Did NY State of Health properly determine that you were eligible to receive up to \$118.00 per month in advance payments of the premium tax credit, effective April 1, 2016?

Did NY State of Health properly determine that you were not eligible for cost-sharing reductions?

Did NY State of Health properly determine that you were no longer eligible for Medicaid?

Procedural History

On April 18, 2015, NY State of Health (NYSOH) issued an eligibility determination notice based on your April 17, 2015 application stating you were eligible for Medicaid effective April 1, 2015. The determination was based on your attested household income of \$0.00.

That same day an enrollment confirmation notice was issued confirming your enrollment in a Medicaid Managed Care plan effective June 1, 2015.

On March 14, 2016, NYSOH received your completed application for health insurance.

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On March 15, 2016, an eligibility determination notice was issued based upon your application stating you newly eligible to receive advance premium tax credits up to \$118.00 per month effective April 1, 2016. You were not eligible for cost-sharing reductions or Medicaid because your income was over the allowable income limit for those programs.

That same day, a disenrollment notice was issued terminating your Medicaid Managed Care plan effective March 31, 2016.

Also that day an enrollment confirmation notice was issued confirming your enrollment in a Bronze level qualified health plan with a premium responsibility of \$250.71 per month starting April 1, 2016.

On April 6, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the March 15, 2016, eligibility determination in regards to the level of financial assistance you were receiving.

On April 19, 2016, Aid to Continue was granted and you were enrolled with your Medicaid Managed Care plan through the length of your appeal.

On October 14, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide your monthly income for the month of March, 2016, as well as proof of your anticipated deductions for 2016. This documentation was received in the form of a six page fax and incorporated in the record as (Appellant's Exhibit 1).

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 no dependents on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on March 14, 2016, listed annual household income of \$33,024.00, consisting of \$34,944.00 in income you earn from your employment and a \$1,920.00 deduction you expect to take in student loan interest.
- 4) You testified you receive \$17.00 an hour for approximately 42 hours a week from your employment, but that this varies.
- 5) You testified you will be taking deductions for student loan interest paid.

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- 6) You provided documentation showing you will be taking student loan interest deductions in the amount of \$615.03 for 2015 (Appellant's Exhibit 1, pg. 1).
- 7) You provided income documentation showing two checks from your employer dated March 16, 2016 in the gross amount of \$1,576.00, and March 30, 2016 in the gross amount of \$1,372.00 (Appellant's Exhibit 1 pg. 2, 3).
- 8) You testified you would like your living expenses included in NYSOH's calculation of your annual household income.
- 9) You testified you currently donate 10% of your annual income to charity. No proof was submitted to show this deduction.
- 10) Your application states that you live in Queens County.

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).

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The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2015 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 2016 FPL, the expected contribution 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).

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)).

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)).

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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 \$11,880.00 for a one-person household (81 Fed. Reg. 4036.).

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

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 deductions in computing adjusted gross income.

Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; see also 26 USC § 62 (17)).

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)).

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Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APT) of up to \$118.00 per month.

In the application that was submitted on March 14, 2016, you attested to an expected yearly income of \$33,024.00, consisting of \$34,944.00 in income you earn from your employment and a \$1,920.00 deduction you expect to take in student loan interest. During the hearing, you testified that the amount you provided in your application was correct. However, you asked that your current living expenses, be considered when calculating your annual household income.

Since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable and phone to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the Marketplace computes your modified adjusted gross income for APTC purposes. Therefore, NYSOH correctly determined your household income to be \$33,024.00.

You are in a one-person household. You expect to file your 2016 income taxes as single and will claim no dependents 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.

An annual income of \$33,024.00 is 280.58% of the 2015 Federal Poverty Level (FPL) for a one-person household. At 280.58% of the FPL, the expected contribution to the cost of the health insurance premium is 9.10% of income, or \$250.43 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 (\$250.43 per month), which equals \$117.83 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$118.00 per month in APTC.

The second issue is whether you were properly found ineligible 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 \$33,024.00 is 280.58% of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

The third issue is whether NYSOH properly determined that you 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 \$11,770.00 for a one-person household. Since \$33,024.00 is 280.58% of the 2015 FPL, NYSOH properly found you to be no longer eligible for Medicaid on an expected annual income basis, using the information provided in your application.

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 \$1,354.00 per month. You provided income documentation showing two checks from your employer dated March 16, 2016 in the gross amount of \$1,576.00, and March 30, 2016 in the gross amount of \$1,372.00 (Appellant's Exhibit 1 pg. 2, 3).

Since the documentation you provided shows that you earned \$2,930.00 in March, 2016, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the March 15, 2016, eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$118.00 per month in APTC, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

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

Effective Date of this Decision: November 2, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$118.00 in APTC.

You are ineligible for cost-sharing reductions.

You are ineligible for Medicaid.

If You Disagree with this Decision (Appeal Rights)

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 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
- 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**.

You remain eligible for up to \$118.00 in APTC.

You are ineligible for cost-sharing reductions.

You are ineligible for Medicaid.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

