



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

Notice of Decision

Decision Date: October 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008833



Dear [REDACTED]

On October 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 12, 2016 eligibility redetermination 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).

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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 properly determine that you were eligible to receive up to \$226.00 per month in advance payments of the premium tax credit, effective May 1, 2016?

Did NY State of Health properly determine that you were eligible for cost-sharing reductions?

Procedural History

According to your NY State of Health (NYSOH) account, on December 30, 2015, NYSOH issue notices of eligibility and enrollment that respectively confirmed you were eligible to receive up to \$226.00 per month in advance payments of the premium tax credit (APTC), eligible for cost sharing reductions, and enrolled in a platinum-level qualified health plan, effective February 1, 2016

On April 11, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility redetermination was prepared stating you were eligible to receive up to \$226.00 per month in APTC and eligible for cost sharing reductions, effective May 1, 2016.

Also on April 11, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to the amount of your financial assistance.

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On April 12, 2016, NYSOH issued an eligibility redetermination notice that was consistent with the April 11, 2016 preliminary redetermination.

On October 18, 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) Your NYSOH account shows that you expect to file your 2016 taxes using 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 April 11, 2016 listed annual household income of \$26,636.00, consisting of income you earn from your employment. You testified this amount was correct.
- 4) Your application states you will not be taking any deductions on your 2016 tax return. You confirmed this information was correct.
- 5) Your application states you live in Niagara County, New York.
- 6) You testified that you cannot afford the monthly premiums even with APTC because your income is used for rent and other basic living needs. You are seeking to receive additional financial assistance.

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

Applicable Law and Regulations

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)).

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“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable 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, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

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 \$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

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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)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$226.00 per month.

The application that was submitted on April 11, 2016 listed an annual household income of \$23,636.00 and the eligibility determination relied upon that information. During the hearing, you testified that the amount you provided in your application was correct. However, you asked that your current expenses, which include rent and other living expenses be considered when calculating your annual household income. Since the Internal Revenue Service rules do not allow living expenses such as rent and other basic living needs to be deducted from the calculation of your adjusted gross income, such expenses cannot be deducted when NYSOH computes your modified adjusted gross income for APTC purposes. Therefore, NYSOH correctly determined your household income to be \$23,636.00.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as single and will claim no dependents on that tax return.

You reside in Niagara County, where the second lowest cost silver plan available for an individual through NYSOH costs \$353.19 per month.

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An annual income of \$23,636.00 is 200.82% of the 2015 FPL for a one-person household. At 200.82% of the FPL, the expected contribution to the cost of the health insurance premium is 6.44% of income, or \$126.81 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 (\$353.19 per month) minus your expected contribution (\$126.81 per month), which equals \$226.38 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$226.00 per month in APTC.

The second issue is whether you were 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 \$23,636.00 is 200.82% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

Since the April 12, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$226.00 per month in APTC and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

Decision

The April 12, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 20, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$226.00 per month in APTC.

You remain eligible for cost-sharing reductions.

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.

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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:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 12, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$226.00 in APTC.

You remain eligible for cost-sharing reductions.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

