



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

Notice of Decision

Decision Date: November 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008859

[REDACTED]

Dear [REDACTED]

On October 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 12, 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.

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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 your spouse was eligible to receive \$0.00 per month in advance payments of the premium tax credit, effective May 1, 2016?

Did NY State of Health properly determine that your children were eligible to enroll through Child Health Plus with a \$30.00 monthly premium each, as of May 1, 2016?

Procedural History

On November 23, 2015, NY State of Health (NYSOH) received your completed application for health insurance in 2016, in which your attested household income for the upcoming year was listed as \$58,420.00.

On November 24, 2015, NYSOH issued an eligibility determination notice that stated you and your spouse were eligible to share in up to \$406.00 per month in advance premium tax credits (APTC) and newly eligible for cost sharing reductions provided you selected a silver-level qualified health plan (QHP), effective January 1, 2016. That notice further stated that your two children were eligible to enroll in Child Health Plus (CHP) at a cost of \$15.00 each, also effective January 1, 2016.

On November 24, 2015, NYSOH issued an enrollment notice confirming that your children were enrolled in a CHP plan, with a total monthly premium of \$30.00 and a January 1, 2016 enrollment start date.

On December 5, 2015, NYSOH issued an enrollment notice confirming that you and your spouse were enrolled in a bronze-level QHP as of January 1, 2016 and had a monthly premium responsibility of \$242.90 after your APTC of \$406.00 was applied.

On April 12, 2016, you updated your NYSOH account to indicate that you no longer needed health insurance through NYSOH. NYSOH prepared a preliminary eligibility redetermination using a household income of \$61,000.00 for a four-person household in Rockland County and, in part, found your spouse eligible for \$0.00 per month in APTC as of May 1, 2016.

Also on April 12, 2016, you spoke with NYSOH's Account Review Unit and appealed your spouse's eligibility for \$0.00 per month in APTC as of May 1, 2016 when, as a couple, APTC of \$406.00 had been applied monthly since January 1, 2016.

On April 13, 2016, NYSOH issued an eligibility redetermination notice that stated your spouse was eligible for \$0.00 in APTC, effective May 1, 2016, and your children were eligible to enroll in Child Health Plus at a cost of \$30.00 each, effective May 1, 2016.

On April 15, 2016, NYSOH issued an enrollment notice confirming your spouse's bronze-level QHP coverage as of May 1, 2016 and your children's continuing CHP Plan coverage, with a total monthly premium responsibility of \$60.00.

On May 24, 2016, NYSOH issued a cancellation notice that stated your spouse's bronze-level QHP was cancelled as of May 1, 2016 because a premium payment had not been received within the required timeframe in order for his coverage to begin.

On October 20, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you requested to amend your appeal to include the increase in your children's CHP premium as of May 1, 2016. The Hearing Officer granted your request and this issue will also be addressed in this Decision. 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:

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- 1) You testified that you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim two dependents on that tax return.
- 2) You are seeking an explanation of why your spouse's APTC amount was \$0.00. You are also seeking to have your children's CHP premium increase as of May 1, 2016 reviewed.
- 3) The application that was submitted on April 12, 2016 listed annual household income of \$61,000.00, consisting of \$28,000.00 you earn from your employment and \$33,000.00 your spouse earns from his employment. You testified that this amount was incorrect and referred to the income you reported in the next tab over for income in the upcoming year (2016), which stated you expect to earn \$30,420.00 and your spouse expects to earn \$28,000.00, which equals \$58,420.00.
- 4) According to your NYSOH account and your testimony, your children were determined eligible to enroll in Child Health Plus as of January 1, 2016 at a cost of \$15.00 monthly premium for each; and were redetermined to be CHP eligible in the April 13, 2016 notice with a \$30.00 monthly premium each.
- 5) Your application states that you will not be taking any deductions on your 2016 tax return.
- 6) Your application states that you live in Rockland County, New York.

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 updated application, the 2015 FPL for a four-person household applied, which was \$24,250.00 (80 Federal Register 3236, 3237).

In 2016, 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).

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 at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

CHP is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq).

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and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL (PHL § 2510(9)(d)(ii)).

The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL (PHL § 2510(9)(d)(iii)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL (PHL § 2510(9)(d)(iv)).

The CHP premium is \$45.00 per month for a child whose family household income is between 301% and 350% of the FPL (PHL § 2510(9)(d)(v)).

The CHP premium is \$60.00 per month for a child whose family household income is between 351% and 400% of the FPL (PHL § 2510(9)(d)(vi)).

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 2015 FPL, which was \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

The first issue is whether NYSOH properly determined that your spouse was eligible for an APTC of up to \$0.00 per month, effective May 1, 2016.

The application that was submitted on November 23, 2015 listed an annual household income of \$58,420.00 and the eligibility determination relied upon that information.

You and your spouse are in a four-person household. This is because you and your spouse plan to file your 2016 income taxes as married filing jointly and claimed two dependents on that tax return.

You applied for health insurance for you and your spouse. You and your spouse reside in Rockland County, where the second lowest cost silver plan available for a couple through NYSOH costs \$788.84 per month.

An annual income of \$58,420.00 is 240.91% of the 2014 FPL for a four-person household. At 240.91% of the FPL, the expected contribution to the cost of the health insurance premium is 7.86% of income, or \$382.65 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 in your county (\$788.84 per month) minus your expected contribution (\$382.65 per month), which equals \$406.19 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your spouse to be eligible for up to \$406.19 per month in APTC. Therefore, the November 24, 2015 eligibility determination is AFFIRMED.

The application that was submitted on April 12, 2016 listed an annual household income of \$61,000.00 and the eligibility determination relied upon that information, even though the next entry showed an income of \$58,420.00.

Your spouse remains in a four-person household for purposes of this analysis.

You re-applied for health insurance solely for your spouse on April 12, 2016 since you no longer needed health insurance through NYSOH. Your spouse resides in Rockland County, where the second lowest cost silver plan available for an individual through NYSOH costs \$394.37 per month.

An annual income of \$61,000.00 is 251.55% of the 2015 FPL for a four-person household. At 251.55% of the FPL, the expected contribution to the cost of the health insurance premium is 8.23% of income, or \$418.36 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 (\$394.37 per month) minus your expected contribution (\$418.36 per month), which equals -\$23.99 per month. Since your spouse's expected contribution exceeds the cost of the second lowest cost-silver plan for an individual, NYSOH correctly determined that your spouse would be eligible for \$0.00 per month in advance premium tax credits based on a reported household income of \$61,000.00.

However, you testified that the income relied upon by NYSOH in your April 12, 2016 application was incorrect and referred to the income you reported in the next tab over for income in the upcoming year (2016), which stated you expect to earn \$30,420.00 and your spouse expects to earn \$28,000.00, which equals \$58,420.00.

An annual income of \$58,420.00 is 240.91% of the 2015 FPL for a four-person household. At 240.91% of the FPL, the expected contribution to the cost of the health insurance premium is 7.86% of income, or \$382.65 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 (\$394.37 per month) minus your expected contribution (\$382.65 per month), which equals \$11.72 per month. Therefore, rounding to the nearest dollar, NYSOH incorrectly determined your spouse to be eligible for up to \$0.00 per month in APTC. Your spouse should have been determined eligible for \$12.00 per month APTC.

However, as of May 1, 2016, your spouse's insurance was cancelled because a premium payment had not been received within the required timeframe in order for his coverage to begin. Therefore, your spouse has no insurance coverage and the amount of APTC to which he should have been entitled is irrelevant.

Lastly on the issue of the amount of APTC, if your husband had paid for coverage through NYSOH and your and your spouse's actual income for 2016 does not match the income NYSOH used when determining your spouse's eligibility, the difference in what your spouse would have been eligible for and what he actually received could have been reconciled on your 2016 federal individual income tax return.

The second issue under review is whether or not your children's CHP premiums should have increased to \$30.00 each as of May 1, 2016.

According to the record, you expect to file a joint federal income tax return for the 2016 tax year and claim your two children as dependents. Therefore, your children are also in a four-person household.

The application that was submitted on April 12, 2016 listed an annual household income of \$61,000.00 and stated that your children are 14 years old and 17 years old. NYSOH relied upon that information.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the federal poverty level (FPL). Household income between 250% and 300% of that FPL are responsible for a \$30.00 per month Child Health Plus premium payment. On the date of your application, the relevant FPL was \$24,250.00 for a four-person household. Since \$61,000.00 is 251.55% of the 2015 FPL, NYSOH found your children to be eligible for Child Health Plus with a \$30.00 per month premium payment for each child.

Again, you testified that the income relied upon by NYSOH in your April 12, 2016 application was incorrect and referred to the income you reported in the next tab

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over for income in the upcoming year (2016), which stated you expect to earn \$30,420.00 and your spouse expects to earn \$28,000.00, which equals \$58,420.00.

For this reason, your case is RETURNED to NYSOH to redetermine your children's monthly CHP premium using a four-person household and an annual household income of \$58,420.00 for two minor children between the ages of 1 and 19 years old.

Decision

The November 24, 2015 eligibility determination is AFFIRMED.

The April 13, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your children's monthly CHP premium using a four-person household and an annual household income of \$58,420.00 for two minor children between the ages of 1 and 19 years old.

Effective Date of this Decision: November 1, 2016

How this Decision Affects Your Eligibility

Your spouse's eligibility remains the same.

Your children's eligibility for CHP remains the same.

Your case is RETURNED to NYSOH to redetermine your children's eligibility for monthly CHP premium based on a household of four and a household income of \$58,420.00. NYSOH will notify you accordingly.

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

Summary

November 24, 2015 eligibility determination is AFFIRMED.

The April 13, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your children's monthly CHP premium using a four-person household and an annual household income of \$58,420.00 for two minor children between the ages of 1 and 19 years old.

Your spouse's eligibility remains the same.

Your children's eligibility for CHP remains the same.

Your case is RETURNED to NYSOH to redetermine your children's eligibility for monthly CHP premium based on a household of four and a household income of \$58,420.00. NYSOH will notify you accordingly.

Legal Authority

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A Copy of this Decision Has Been Provided To:

