



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

Notice of Decision

Decision Date: December 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008893



Dear [REDACTED],

On November 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 7, 2016 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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: December 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008893



Issues

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

Did New York State of Health (NYSOH) properly determine that you were eligible to receive up to \$144.00 of advance premium tax credit per month as of April 7, 2016?

Did NYSOH properly determine that you were not eligible for coverage through the Essential Plan as of April 7, 2016?

Procedural History

On March 30, 2016, you submitted a financial assistance application through NYSOH. NYSOH rendered a preliminary eligibility determination that you were eligible for a limited time to enroll in the Essential Plan with a \$20.00 premium per month.

Also March 30, 2016, you uploaded income documentation to your NYSOH account ([REDACTED] [REDACTED] [REDACTED] [REDACTED])

On March 31, 2016, NYSOH issued an eligibility determination notice that based on your March 30, 2016 application, you were eligible to enroll in the Essential Plan for a limited time, effective as of May 1, 2016. The notice directed you to submit income documentation before June 28, 2016 to confirm your eligibility.

Also on March 31, 2016, NYSOH issued an enrollment notice confirming, that as of March 30, 2016, you were enrolled in an Essential Plan, with a plan enrollment start date of May 1, 2016.

On April 6, 2016, your NYSOH account was updated.

On April 7, 2016, NYSOH issued an eligibility determination notice, in relevant part, that you were eligible to receive up to \$144.00 of advance premium tax credit and not eligible to enroll in an Essential Plan.

Also on April 7, 2016, NYSOH issued a cancellation notice stating that your Essential Plan would be cancelled effective May 1, 2016.

On April 14, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible to receive.

On September 30, 2016, NYSOH issued you a Notice of Telephone Hearing, scheduling your hearing on October 25, 2016, with a Hearing Officer from NYSOH Appeals Unit.

On October 21, 2016, you contacted NYSOH and requested that your appeal be rescheduled, and your hearing was rescheduled for November 10, 2016.

On November 10, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open until November 14, 2016 to allow you time to submit additional income documentation.

On November 10, 2016, you submitted two faxes to NYSOH Appeals Unit.

- (a) The first fax included: a cover page; a statement estimating your gross income for 2016; a pay history for the time period of 1/8/2016 through 11/10/2016; earnings statements from your employer, [REDACTED] for 11/4/2016 and 11/10/2016. That fax has been collectively marked as "Appellant Exhibit A" and incorporated into the record.
- (b) The second fax included earnings statements from your employer, [REDACTED] for 10/21/16, 10/28/16 and 11/4/2016. That fax has been collectively marked as "Appellant Exhibit B" and incorporated into the record.

The record is now complete and closed.

Findings of Fact

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

1. According to your application and testimony, you are applying for health insurance through NYSOH for yourself.
2. You plan on filing a 2016 federal income tax return, with the tax status of single, and will not be claiming any dependents on that tax return.
3. According to your March 30, 2016 NYSOH application, you attested to an expected annual household income of \$22,922.64.
4. On March 30, 2016, you uploaded four earnings statements from your employer, [REDACTED]. You were issued:
 - (a) \$600.00 on March 4, 2016 (Check No. [REDACTED])
 - (b) \$600.00 on March 11, 2016 (Check No. [REDACTED])
 - (c) \$600.00 on March 18, 2016 (Check No. [REDACTED])
 - (d) \$600.00 on March 25, 2016 (Check No. [REDACTED])
5. You reside in Kings County, New York.
6. You estimate that your gross income will be \$24,260.00 in 2016 (Appellant Exhibit A p. 2).
7. You testified and your account reflects that you do not expect to claim any deductions on your 2016 federal income tax return.
8. You testified that you were unemployed from June 2016 through September 2016.
9. According to your pay history, you had a gap in income from May 20, 2016 through September 16, 2016 (Appellant Exhibit A p. 2).
10. On November 10, 2016, you faxed four earnings statements from your employer, [REDACTED], to NYSOH Appeals Unit. You were issued:
 - (a) \$720.00 on October 21, 2016;
 - (b) \$720.00 on October 28, 2016;
 - (c) \$720.00 on November 4, 2016;
 - (d) \$720.00 on November 10, 2016(Appellant Exhibit A pgs. 3-4; Appellant Exhibit B pgs. 2-3).

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

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).

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)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

Advance Premium Tax Credit

The advance premium tax credit (APTC) is 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 Fed. Reg. 3236, 3237).

For annual household income in the range of at least 250% but less than 300% of the 2015 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).

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for APTC of up to \$144.00 per month as of April 7, 2016.

On March 30, 2016, you submitted a financial assistance application though NYSOH attesting to an annual household income of \$22,922.64. Based on that attestation, NYSOH directed you to submit income documentation to confirm your eligibility.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income. If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

The record reflects that you uploaded four earnings statements from your employer, [REDACTED], to your NYSOH account. The statements

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).

uploaded reflected that you were consistently issued \$600.00 in gross income on a weekly basis. Based on that documentation, NYSOH determined that your annual household income was ($\$600.00 \times 52$) \$31,200.00.

The record reflects that you expect to file a 2016 federal income tax return, with the tax status of single, and do not expect to claim any dependents on that return. Therefore, you are in a one-person tax household.

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

An annual household income of \$31,200.00 is 265.08% of the 2015 FPL for a one-person household. At 265.08% of the FPL, the expected contribution to the cost of the health insurance premium is 8.63% of income, or \$224.38 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 (\$224.38 per month), which equals \$143.88 month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$144.00 per month in APTC.

The second issue under review is whether NYSOH properly determined that you were not eligible for the Essential Plan as of April 7, 2016.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household MAGI that is between 138% and 200% of the FPL for the applicable family size. Since a household income of \$31,200.00 is 265.08% of the applicable FPL, NYSOH correctly found you to be ineligible for the Essential Plan.

Since the April 7, 2016 eligibility determination properly stated that you are eligible for APTC of up to \$144.00 per month and not eligible for an Essential Plan, it is correct and is **AFFIRMED**.

You testified that you were unemployed from June 2016 through September 2016. The record was left open to allow you the opportunity to submit additional documentation to demonstrate your household income.

The record reflects that you had a gap in income from May 20, 2016 through September 16, 2016, and your estimated gross income will be \$24,260.00 in 2016. Since the documentation provided may materially affect the amount of financial assistance you are eligible to receive, your case is **REMANDED** to the NYSOH for a redetermination of your eligibility based on an expected household income of \$24,260.00, for a one-person household, residing in Kings County, NY.

Decision

The April 7, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to recalculate your eligibility for financial assistance based on an expected household income of \$24,260.00, for a one-person household, residing in Kings County, NY.

Effective Date of this Decision: December 7, 2016

How this Decision Affects Your Eligibility

NYSOH properly determined your eligibility for financial assistance as of April 7, 2016.

Your case has been returned to NYSOH to recalculate your eligibility for financial assistance based on an expected household income of \$24,260.00, for a one-person household, residing in Kings County, NY.

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 after the date 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 date 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):

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).

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 April 7, 2016 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to recalculate your eligibility for financial assistance based on an expected household income of \$24,260.00, for a one-person household, residing in Kings County, NY.

NYSOH properly determined that eligibility for financial assistance as of April 7, 2016.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

