



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: AP000000009128

[REDACTED]

Dear [REDACTED],

On November 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 9, 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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Decision

Decision Date: December 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009128



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 \$194.00 per month in advance payments of the premium tax credit and cost sharing reductions if you selected a silver level qualified health plan, effective May 1, 2016?

Did NY State of Health properly determine that you were not eligible for Medicaid?

Procedural History

On March 28, 2016, NY State of Health (NYSOH) received your application for health insurance.

On March 29, 2016, NYSOH issued a notice advising you that the income information you provided did not match what NYSOH obtained from State and Federal data sources, therefore no eligibility determination could be made until you provided income documentation. This same notice requested that you submit income documentation by April 13, 2016.

On April 8, 2016, income documentation was uploaded to your NYSOH account. Also on April 8, 2016, NYSOH redetermined your eligibility.

On April 9, 2016, NYSOH issued a notice of eligibility redetermination which stated that you were newly eligible to receive up to \$194.00 per month in

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advance payments of the premium tax credit and cost sharing reductions if you selected a silver level qualified health plan, effective May 1, 2016. The notice further stated that you were not eligible for Medicaid because your household income was over the allowable income limit.

On April 25, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination in so far as you were not found eligible for Medicaid.

On November 7, 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 for 21 days to allow you the opportunity to submit paystubs from March and April 2016 as well as a recent paystub. On November 17, 2016 the Appeals Unit received via fax four paystubs. These documents were incorporated into the record. The record is now closed.

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) You testified that you were not sure what your annual expected income for 2016 is. This is because you do not work every day and you miss time from work due to health issues.
- 4) You testified that you could not remember what your monthly income for March 2016 or April 2016 was.
- 5) You testified that you have been working for the same employer, throughout 2016.
- 6) You testified that you are paid biweekly. You testified that you are not paid for holidays.
- 7) You submitted six paystubs from your employer. The first paystub is for pay date March 16, 2016 for a gross pay amount of \$651.44 and shows a gross year to date amount of \$5537.35. The second paystub is for pay date April 1, 2016 for a gross pay amount of \$1,465.74. The third paystub is for pay date April 18, 2016 for a gross pay amount of \$1140.02. The fourth paystub is for pay date May 17, 2016 for a gross pay amount of \$488.58 and shows a gross year to date amount of \$10,586.49. The fifth

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paystub is for pay date October 5, 2016 and shows a gross pay amount of \$168.54. The sixth paystub is for pay date November 1, 2016 and shows a gross pay amount of \$1,011.24 and a gross year to date amount of \$20,002.01.

- 8) Your application states that you will not be taking any deductions on your 2016 tax return.
- 9) Your application states, and your testimony confirmed, that you live in Kings County.
- 10) On April 8, 2016, NYSOH determined your annual expected income for 2016 to be \$27,523.34 based on paystubs you submitted.

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 §

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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 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)).

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).

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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).

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)).

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)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$194.00 per month and cost sharing reductions.

On April 8, 2016, NYSOH determined your annual household income to be \$27,523.34 based on income documentation you submitted and the April 9, 2016 eligibility determination relied upon that information.

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 Kings County, where the second lowest cost silver plan available for an individual through NYSOH costs \$369.00 per month.

An annual income of \$27,523.34 is 233.84% of the 2015 FPL for a one-person household. At 233.84% of the FPL, the expected contribution to the cost of the health insurance premium is 7.61% of income, or \$174.54 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 (\$369.00 per month) minus your expected contribution (\$174.54 per month), which equals \$194.46 per month. Therefore, rounding to the nearest

dollar, NYSOH correctly determined you to be eligible for up to \$194.00 per month in APTC.

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 \$27,523.34 is 233.84% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The second 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 \$11,880.00 for a one-person household. Since \$27,523.34 is 233.84% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the income documentation you supplied.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You submitted paystubs that show in April 2016 you received \$2,605.76.

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 \$1,367.00 per month. Since the documentation you provided shows that you earned \$2,605.76 in April 2016 you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

You did not submit sufficient paystubs for your Medicaid eligibility for March 2016 to be determined on a monthly basis. You testified that you are paid biweekly, and you only submitted one paystub for March 2016, therefore the income documentation you submitted does not reflect your total earnings in March 2016, therefore, your Medicaid eligibility cannot be determined on a monthly basis for March 2016.

Since the April 9, 2016 eligibility determination properly stated that, based on the income information you uploaded, you were eligible to receive up to \$194.00 per month in advance payments of the premium tax credit and cost sharing reductions if you selected a silver level qualified health plan, effective May 1, 2016, was correct and is **AFFIRMED**.

Decision

The April 9, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: December 7, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$194.00 in APTC and cost-sharing reductions.

You are ineligible for Medicaid.

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 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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NY State of Health Appeals
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- By fax: 1-855-900-5557

Summary

The April 9, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$194.00 in APTC and cost-sharing reductions.

You are ineligible for Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

