



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: AP000000009151

[REDACTED]

Dear [REDACTED]

On October 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 26, 2016 eligibility determination and enrollment confirmation notices.

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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NY State of Health Account ID: [REDACTED]
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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 (NYSOH) properly determine that you were eligible to receive up to \$189.00 per month in advance payments of the premium tax credit (APTC)?

Did NYSOH properly determine that your APTC would be applied effective May 1, 2016?

Procedural History

On October 23, 2015, NYSOH issued a notice stating that it was time to renew your health insurance for 2015. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage in 2015, and that you needed to update your account by December 15, 2015 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2015.

On December 22, 2015, you were automatically re-enrolled in the qualified health plan you had in 2015, but at full cost for 2016.

On December 23, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in your qualified health plan with a monthly premium of \$645.66, effective January 1, 2016.

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On April 25, 2016, NYSOH received your updated application for health insurance and prepared a preliminary eligibility redetermination finding you newly conditionally eligible to receive \$189.00 per month in APTC and newly conditionally eligible for sot sharing reductions, effective June 1, 2016.

Also on April 25, 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 and your request to backdate your APTC to January 1, 2016.

On April 26, 2016, NYSOH issued an eligibility determination notice that was consistent with the April 25, 2016 preliminary eligibility redetermination.

Also on April 26, 2016, NYSOH issued an enrollment confirmation notice based on the April 25, 2016 plan selection, stating that you were enrolled in your qualified health plan as of January 1, 2016, and that your monthly premium would be \$456.66 after your monthly APTC was applied, effective May 1, 2016.

On October 26, 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) 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 April 25, 2016 listed annual household income of \$27,900.00, consisting solely of income you earn from your self-employment. You testified that you thought this amount was correct, but you were not completely sure because your income varies.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return.
- 5) Your application states that you live in New York County, New York.

- 6) According to your NYSOH account, you receive all your NYSOH notifications via electronic mail.
- 7) You testified that you were out of the country for a couple of months and didn't realize you needed to renew your application for financial assistance. You did not receive the October 23, 2015 renewal notice.
- 8) You testified that your mother takes care of these issues for you and you are not sure whether she received the renewal notice.
- 9) You testified that you wanted your advance premium tax payments backdated to January 1, 2016, because the amount of money you are paying for health insurance is a lot for you.
- 10) You testified that you paid the full premium cost of \$645.66 per month for the months of coverage from January 1, 2016 until the APTC was applied in May 2016.
- 11) According to your NYSOH account, you selected to be automatically renewed in coverage for 5 years.

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 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).

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the projected eligibility determination for the following year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)).

NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$189.00 per month, effective May 1, 2016.

The application that was submitted on April 25, 2016 listed an annual household income of \$27,900.00 and the eligibility determination relied upon that information.

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 New York County, where the second lowest cost silver plan available for an individual through NYSOH costs \$368.26 per month.

An annual income of \$27,900.00 is 237.04% of the 2015 FPL for a one-person household. At 237.04% of the FPL, the expected contribution to the cost of the health insurance premium is 7.72% of income, or \$179.49 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 (\$179.49 per month), which equals \$188.87 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$189.00 per month in APTC.

The second issue is whether NY State of Health properly determined that your advanced premium tax payments were effective May 1, 2016.

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NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 23, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you qualified for financial help paying for your health coverage. You were asked to update the information in your account by December 15, 2015 or the financial help you were receiving might end.

Your information was not updated prior to December 15, 2015, and on December 22, 2015, you were automatically enrolled in a qualified health plan at full cost. On December 23, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in your qualified health plan with a monthly premium of \$645.66, effective January 1, 2016. You were not eligible to receive APTC or cost-sharing reductions because the required information to renew, including income data, was not available at the time of the redetermination.

You testified, and the record reflects, that you elected to receive your notices from NYSOH via electronic mail. You credibly testified that because you were out of the country for a couple of months, you never received the notification that you needed to update the information by December 15, 2015. However, you conceded that your mother generally takes care of these issues for you and you are not sure if she received the notification.

Therefore, it is concluded that NYSOH gave you the proper notice that you needed to update your account.

The record shows that your application was updated on April 25, 2016. This resulted in the April 26, 2016 eligibility determination notice that stated you were eligible to receive up to \$189.00 in APTC. This eligibility was effective June 1, 2016.

When an individual changes information in their application after the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the month following the next month.

Therefore, NYSOH's April 26, 2016 eligibility determination is AFFIRMED insofar as it properly found that your eligibility for APTC resumed on June 1, 2016.

Since the April 26, 2016 enrollment notice stated that your APTC would be applied as of May 1, 2016, NYSOH is bound by that formal notice and you were entitled to APTC to be applied as of that date.

Since APTC cannot be applied retroactively and because it is nearly the end of the 2016 policy year, no further action by NYSOH is required at this time. Instead, at the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to NYSOH and their actual gross income for that year, which may also result in a tax credit or reduction in tax liability if the full amount of APTC to which a person is entitled is not taken throughout the year, as in your case. Conversely, if a person received more APTC than their maximum entitlement, based on gross income, they might owe the excess as an additional income tax liability. The amount of APTC to which you were entitled can be reconciled at the time you file your 2016 federal tax return.

Decision

The April 26, 2016 eligibility determination and enrollment notices are **AFFIRMED**.

Effective Date of this Decision: November 2, 2016

How this Decision Affects Your Eligibility

You were eligible to receive to \$189.00 per month of APTC and eligible for cost sharing reductions, effective May 1, 2016.

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, APTCs, 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

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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 April 26, 2016 eligibility determination and enrollment notices are **AFFIRMED**.

You were eligible to receive to \$189.00 per month of APTC and eligible for cost sharing reductions, effective May 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

