



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

Notice of Decision

Decision Date: December 9, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009774

[REDACTED]

Dear [REDACTED],

On November 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 21, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 9, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009774

[REDACTED]

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 \$216.00 per month in advance payments of the premium tax credit (APTC), effective July 1, 2016?

Did NY State of Health properly determine that you were eligible for cost-sharing reductions (CSR), effective July 1, 2016?

Did NY State of Health properly determine that you were not eligible for the Essential Plan?

Procedural History

On December 21, 2015, NYSOH redetermined your eligibility for financial assistance.

On December 22, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016.

On December 24, 2015, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in an Essential Plan 4, effective January 1, 2016.

On April 12, 2016, NYSOH issued a notice that it was time to renew your health insurance. That notice stated that, based on information from federal and state

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sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by May 15, 2016, or you might lose the financial assistance you were currently receiving.

On May 16, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan (QHP) at full cost, effective June 1, 2016. The notice also stated that you were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive APTC because you did not respond to the renewal notice and did not complete your renewal within the required timeframe.

On May 17, 2016, NYSOH issued a disenrollment notice stating that your coverage in your Essential Plan 4 was ending effective May 31, 2016.

On May 20, 2016, NYSOH received your updated application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$216.00 per month in APTC, and eligible for CSR, effective July 1, 2016.

Also on May 20, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as it did not find you eligible for the Essential Plan. You also requested to have your Essential Plan coverage continue, pending the outcome of your appeal (Aid to Continue).

On May 21, 2016, NYSOH issued an eligibility determination notice based on the information contained in the May 20, 2016 application, stating that you were eligible to receive up to \$216.00 per month in APTC, and eligible for CSR, effective July 1, 2016. The notice also stated that you were eligible to enroll in a QHP outside of the 2016 open enrollment period, and that you had until July 30, 2016 to select a health plan for enrollment.

On May 26, 2016, NYSOH issued a notice stating that you were eligible for the Essential Plan with no monthly premium for a limited time, effective June 1, 2016. This was because you had been granted Aid to Continue pending the outcome of your appeal. That same day, you were re-enrolled into your Essential Plan 4, with an enrollment start date of June 1, 2016.

On November 21, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, a Haitian-Creole interpreter, ID# [REDACTED] assisted. The record was developed during the hearing and held open for fifteen days at the end of the hearing to provide you with the opportunity to submit proof of your gross income for the month of May 2016. On December 5, 2016, you sent a three-page fax to NYSOH consisting of paystubs. The record is now closed.

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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 only.
- 3) The application that was submitted on May 20, 2016 listed annual household income of \$25,796.00, consisting of earned income.
- 4) You testified that this amount was not correct, and that your expected annual income was less than this amount.
- 5) You testified that you were working three jobs at the time of your application in May 2016.
- 6) You testified that you were working at [REDACTED] for 20-25 hours per week, at \$8.75 an hour, and that you worked at this job until September 2016.
- 7) You testified that you were working a second job for \$10.00 an hour, 30 hours per week, and that you are still at this job.
- 8) You testified that your third job was with [REDACTED], but that your hours are not fixed there. You testified that you are paid \$10.00 an hour there, and that you work no more than 180 hours for the year. You testified that you are still at this job.
- 9) You testified that you are not sure what your total income was for the month of May 2016.
- 10) Your application states that you will not be taking any deductions on your 2016 tax return.
- 11) Your application states that you live in Kings County.
- 12) You testified that you are seeking to be eligible for the Essential Plan.
- 13) After the hearing, you submitted a three-page fax consisting of three paystubs from [REDACTED] as follows:

- a. A paystub for gross pay of \$60.00 dated May 5, 2016;

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- b. A paystub for gross pay of \$117.50 dated May 26, 2016; and
- c. A paystub for gross pay of \$55.00 dated June 9, 2016

These documents are entered into the record collectively as Appellant's Exhibit One.

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

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).

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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

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)).

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).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). 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).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for APTC of up to \$216.00 per month, effective July 1, 2016.

The application that was submitted on May 20, 2016 listed an annual household income of \$25,796.00, and the 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 subscriber through NYSOH costs \$368.26 per month.

An annual income of \$25,796.00 is 219.17% of the 2015 FPL for a one-person household. At 219.17% of the FPL, the expected contribution to the cost of the health insurance premium is 7.08% of income, or \$152.41 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 subscriber in your county (\$368.26 per month) minus your expected contribution (\$152.41 per month), which equals \$215.85 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$216.00 per month in APTC, based on the information in your May 20, 2016 application.

The second issue under review 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 \$25,796.00 is 219.17% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The third issue under review is whether NYSOH properly determined that you were not eligible for the Essential Plan, as of your May 20, 2016 application.

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.

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested. On the date of your application, that was the 2016 FPL, which is \$11,880.00 for a one-person household. Since a household income of \$25,796.00 is 219.17% of the FPL, NYSOH correctly determined that you were not eligible for the Essential Plan, based on the May 20, 2016 application.

During the hearing, you testified that the income amount listed in your May 20, 2016 application was not correct, and that you actually expect your annual income to be less because one of your jobs ended in September, and one of them is not stable. You testified that you did not know what you expected your annual income to be, and that you did not know what you had earned in the month of May 2016. Therefore, the record was kept open for fifteen days at the end of the hearing so that you could submit proof of your gross income for the month of May 2016.

After the hearing, you faxed three paystubs to NYSOH dated May 5, 2016, May 29, 2016, and June 6, 2016 from [REDACTED] (Appellants Exhibit One). However, during the hearing, you testified that you were also working two other jobs in May 2016, and you did not submit any paystubs for those jobs. Therefore, there is not sufficient evidence to warrant sending your case back to NYSOH for a redetermination of your eligibility.

Since the May 21, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$216.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for the Essential Plan, it is correct and is AFFIRMED.

Decision

The May 21, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: December 9, 2016

How this Decision Affects Your Eligibility

You were eligible for up to \$216.00 in APTC as of your May 20, 2016 application.

You were eligible for CSR, as of your May 20, 2016 application.

You were not eligible for the Essential Plan as of your May 20, 2016 application.

This decision has no effect on your current eligibility.

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

Summary

The May 21, 2016 eligibility determination notice is **AFFIRMED**.

You were eligible for up to \$216.00 in APTC as of your May 20, 2016 application.

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You were eligible for CSR, as of your May 20, 2016 application.

You were not eligible for the Essential Plan as of your May 20, 2016 application.

This decision has no effect on your current eligibility.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

