



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

Notice of Decision

Decision Date: January 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010270

[REDACTED]

[REDACTED]

On December 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 15, 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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Decision

Decision Date: January 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010270



Issues

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

Did NY State of Health properly calculate the household income used when determining your eligibility for financial assistance?

Did NY State of Health properly determine that you were eligible to receive up to \$190.00 per month in advance payments of the premium tax credit, effective July 1, 2016?

Did NY State of Health properly determine that you were eligible for cost-sharing reductions?

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

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

Procedural History

On June 14, 2016, NY State of Health (NYSOH) received your completed application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the application, stating that you were eligible to receive up to \$190.00 in tax credits to help pay for the cost of your insurance as well as cost-sharing reductions to help pay for your out of pocket costs if you selected a silver level health insurance plan, effective July 1, 2016.

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Also on June 14, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to the level of financial assistance you were eligible to receive.

On June 15, 2016, NYSOH issued an eligibility determination notice based on the information contained in the June 14, 2016 application, stating that you were eligible to receive up to \$190.00 per month in advance payments of the premium tax credit (APTC) and, if you selected a silver-level qualified health plan, for cost-sharing reductions (CSR). This eligibility was effective July 1, 2016.

On December 8, 2016, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On December 9, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. The record was developed during the hearing and left open for fourteen days to allow you the opportunity to submit income documentation. On December 13, 2016, the Appeals Unit received via fax a time off request showing your request for time off from June 13, 2016 to July 8, 2016 was approved, a time off request showing your request for time off from September 7, 2016 to September 28, 2016 was approved, and three paystubs. These documents were collectively marked as Appellant's Exhibit #1 and 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) The application that was submitted on June 14, 2016 listed annual household income of \$26,624.00. You testified that your income for 2016 will be less than what you reported in that application.
- 4) You testified that you have held only one job in 2016.
- 5) You testified that you received no income from other sources, such as unemployment, in 2016.
- 6) You testified that you are paid biweekly.

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- 7) You testified that you are paid based on how many hours you work and the hours that you work vary from week to week. You testified that you were working 35 hours per week at the beginning of the year, however, now you typically work between 20 and 30 hours per week.
- 8) You testified, and provided documentation, that you were out of work from June 13, 2016 to July 8, 2016 and from September 7, 2016 to September 28, 2016.
- 9) You submitted three paystubs. The first is for pay date June 17, 2016 for a gross pay amount of \$1075.40; the second is for pay date September 23, 2016 for a gross pay amount of \$143.68; the third is for pay date December 2, 2016 for a gross pay amount of \$782.72 and shows a year to date gross amount of \$20,748.57. All three paystubs show an hourly rate of \$16.00 per hour.
- 10) Your application states that you will not be taking any deductions on your 2016 tax return.
- 11) You testified that you wish to have your expenses taken into account which include \$200.00 per month for dental apparatuses and \$2,000 for car repairs in 2016.
- 12) Your application states, and you testified, that you live in Niagara County.

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

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)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions

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attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

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

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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)).

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 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

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).

Legal Analysis

The first issue is whether NYSOH properly calculated the household income used when determining your eligibility for financial assistance.

In the application that was submitted on June 14, 2016, you attested to an expected yearly income of \$26,624.00, and the eligibility determination relied upon that information. During the hearing, you testified that the amount you provided in your application was no longer correct as you spent several weeks out of work and the hours you work have changed. You also asked that your current expenses, which include motor vehicle repairs and payments for dental apparatuses, be considered when calculating your annual household income.

Since the Internal Revenue Service rules do not allow living expenses such as motor vehicle repairs to be deducted from the calculation of your adjusted gross income, they cannot be deducted when NYSOH computes your modified adjusted gross income for APTC purposes. Therefore, NYSOH correctly determined your household income to be \$26,624.00, based upon your reported income.

The second issue is whether NYSOH properly determined that you were eligible for APTC of up to \$190.00 per month.

The application that was submitted on June 14, 2016 listed an annual household income of \$26,624.00 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 Niagara County, where the second lowest cost silver plan available for an individual through NYSOH costs \$353.19 per month.

An annual income of \$26,624.00 is 226.20% of the 2015 FPL for a one-person household. At 226.20% of the FPL, the expected contribution to the cost of the health insurance premium is 7.34% of income, or \$162.80 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 (\$353.19 per month) minus your expected contribution (\$162.80 per

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month), which equals \$190.39 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined up to be eligible for up to \$190.00 per month in APTC.

The third issue 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 \$26,624.00 is 226.20% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The fourth issue under review is whether NYSOH properly determined that you were ineligible for the Essential Plan.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,070.00 for a one-person household. Since an annual household income of \$26,624.00 is 226.20% of the 2015 FPL, NYSOH properly found you to be ineligible for the Essential Plan.

The fourth 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 \$26,624.00 is 224.11% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the June 15, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$190.00 per month in APTC, eligible for cost-sharing reductions, ineligible for the Essential Plan, and ineligible for Medicaid, it is correct and is AFFIRMED.

Please note that you provided documentation that shows that you may have had an annual 2016 household income that was less than what was documented in your June 14, 2016 application. However, since you did not update the 2016 annual income in your account or provide this additional documentation to NYSOH prior to your hearing NYSOH Appeals Unit cannot direct NYSOH to redetermine your eligibility for 2016 since we are now in the 2017 enrollment period.

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Decision

The June 15, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 5, 2017

How this Decision Affects Your Eligibility

You remain eligible for up to \$190.00 in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for the Essential Plan.

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):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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Summary

The June 15, 2016 eligibility determination notice is **AFFIRMED**.

You remain eligible for up to \$190.00 in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for the Essential Plan.

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:

