



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

Notice of Decision

Decision Date: February 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010740

[REDACTED]

Dear [REDACTED],

On January 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 17, 2016 eligibility determination notice and disenrollment notice and May 7, 2016 eligibility determination notice.

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 Date: February 13, 2017

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 properly determine your eligibility for Medicaid and your enrollment in a Medicaid Managed Care plan ended April 30, 2016?

Did NY State of Health properly determine you were eligible to receive up to \$208.00 per month in advance payments of the premium tax credit, effective June 1, 2016?

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

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

Procedural History

On May 23, 2015, NY State of Health (NYSOH) received your updated application for health insurance.

On May 24, 2015, NYSOH issued a notice of eligibility determination stating you were eligible for Medicaid, effective May 1, 2015.

Also on May 24, 2015, NYSOH issued a notice of enrollment confirmation stating you were enrolled in a Medicaid Managed Care plan, effective July 1, 2015.

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On March 9, 2016, NYSOH issued a notice stating it was time to renew your health insurance for the upcoming coverage year. 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, and you needed to update your account by April 15, 2016 or you might lose the financial assistance you were currently receiving.

No updates were received by April 15, 2016.

On April 17, 2016, NYSOH issued an eligibility determination notice stating you were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. You also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Your eligibility ended April 30, 2016.

Also on April 17, 2016, NYSOH issued a disenrollment notice stating your Medicaid Managed Care plan was terminated as of April 30, 2016 because you did not renew your health coverage and, therefore, you were no longer eligible to remain enrolled in health insurance through NYSOH.

On April 29, 2016, NYSOH received your updated application for health insurance.

On May 7, 2016, NYSOH issued a notice of eligibility determination, based on your April 29, 2016 application, stating you were eligible to receive advance premium tax credits (APTC) of up to \$208.00 monthly to help pay for the cost of health coverage, effective June 1, 2016. You were also eligible to receive cost sharing reductions. The notice further stated you were not eligible for Medicaid because the household income you provided of \$26,416.00 is over the allowable income limit of \$16,395.00.

On July 5, 2016, NYSOH received your written request for appeal of your disenrollment from your Medicaid Managed Care plan and the May 7, 2016 eligibility determination insofar as you were not eligible for Medicaid.

On January 5, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open for you to submit documentation establishing your income for the month of April 2016. Said documentation was received by NYSOH Appeals Unit on January 23, 2017 and the record closed thereafter.

Findings of Fact

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

- 1) You are seeking insurance for yourself.
- 2) You submitted an application for health insurance to NYSOH on May 23, 2015 wherein you attested to an annual income of \$15,600.00. Thereafter, you were found eligible for Medicaid as of May 1, 2015.
- 3) The record reflects, you did not timely renew your health coverage for the 2016 coverage year and you were disenrolled from your Medicaid Managed Care plan on April 30, 2016.
- 4) You testified you did not renew your coverage in time because the renewal notice was sent to your former address and you did not receive it until after the deadline. You further testified you did not contact NYSOH to update your address until after the deadline for renewal expired.
- 5) You submitted an updated application on April 29, 2016, increasing your expected annual household income to \$26,416.00. You testified, and the application indicates, this amount consists of \$508.00 in weekly income earned from your employment. You testified this amount was correct. However, you further testified this amount was the net received after taxes were deducted.
- 6) You testified, and provided documentation, that your weekly gross income is \$600.00.
- 7) You provided 4 paystubs with check dates in April 2016 establishing your gross income for the month of April 2016 was \$2,400.00.
- 8) You testified you expect to file your 2016 taxes with a tax filing status of head of household.
- 9) You testified you want to claim your child as a dependent on your 2016 tax return, but you are unsure whether you can because your child is on your ex-spouse's insurance account and he intends to claim the child as a dependent.
- 10) Your application indicates you will not claim any dependents on your 2016 tax return.
- 11) Your application states you will not take any deductions on your 2016 tax return.

- 12) Your application states you live in Kings County.
- 13) You testified you have not had health coverage since being disenrolled from Medicaid as of April 30, 2016, because you cannot afford to pay for a health plan on top of your other monthly expenses.
- 14) You testified you are seeking reinstatement in your Medicaid managed Care plan as of May 1, 2016.
- 15) The record reflects, on July 5, 2016, NYSOH received your written request for appeal of the disenrollment from your Medicaid Managed Care plan and the eligibility determination finding you eligible for APTC. Thereafter, a formal appeal was filed on your behalf on July 7, 2016.
- 16) On July 7, 2016, you uploaded to your NYSOH account several documents appearing to constitute medical diagnoses that you testified evidence an immediate need for medical treatment and, thereby, health insurance.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Timeliness of Appeal Request

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

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)).

General Deductions

“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

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from premature withdrawal of funds from time savings accounts, deductions 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 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).

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).

Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

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), (g)).

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 your eligibility for Medicaid and your enrollment in a Medicaid Managed Care plan ended April 30, 2016.

The record reflects, on April 17, 2016, NYSOH issued an eligibility determination notice indicating that as of April 30, 2016 you were not eligible to enroll in health coverage through NYSOH, because you did not complete your renewal within the required time frame. As a result, NYSOH issued a notice of disenrollment, also on April 17, 2016, stating your Medicaid Managed Care plan was terminated as of April 30, 2016.

The record further reflects, NYSOH did not receive your written request to appeal the disenrollment from your Medicaid Managed Care plan until July 5, 2016. Accordingly, the appeal request was received 79 days after the date of the notice of eligibility determination at issue.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

As the evidence of record establishes your appeal request was received more than 60 days after the date of the notice of eligibility determination at issue, your appeal of the April 17, 2016 notice of eligibility determination and disenrollment notice are DISMISSED as untimely.

The second issue is whether NYSOH properly determined you were eligible for an APTC of up to \$208.00 per month.

In the application submitted on April 29, 2016, you attested to an expected yearly income of \$26,416.00, and the eligibility determination relied upon that information.

During the hearing, you testified you cannot afford to pay for health insurance because of the various other monthly expenses you are responsible for. Since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable and phone 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 utilized the household income amount provided in your application, \$26,416.00, in determining the amount of APTC you were eligible for.

For the purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year. You testified you want to claim your child as a dependent on your 2016 tax return, but you are unsure whether you can. However, the April 29, 2016 application indicates you will not claim any dependents on your 2016 tax return. The eligibility determination relied upon that information and, therefore, for the purposes of this review, you are in a one-person household. You are encouraged to update your account in the event your circumstances have changed.

The record reflects you reside in Kings County, where the second lowest cost silver plan available for an individual through NYSOH costs \$368.26 per month in 2016.

An annual income of \$26,416.00 is 224.44% of the 2015 FPL for a one-person household. At 224.44% of the FPL, the expected contribution to the cost of the health insurance premium is 7.32% of income, or \$161.03 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 (\$161.03 per month), which equals \$207.23 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$208.00 per month in APTC.

The second 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 \$26,416.00 is 224.44% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The third issue is whether NYSOH properly determined you were ineligible for Medicaid.

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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 \$26,416.00 is 222.36% 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.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. As your update application was submitted April 29, 2016, your income for the month of April 2016 is determinative.

You submitted 4 weekly paystubs with check dates in April 2016 evidencing you earned \$600.00 in gross weekly income. Accordingly, the evidence establishes you received \$2,400.00 in gross income for the month of April 2016.

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 you earned \$2,400.00 in April 2016 you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the May 7, 2016 eligibility determination properly stated, based on the information you provided, you were eligible for up to \$208.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2016, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

Decision

Your appeal of the April 17, 2016 eligibility determination and disenrollment notices are DISMISSED.

The May 7, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 13, 2017

How this Decision Affects Your Eligibility

Your Medicaid Managed Care plan ended April 30, 2016.

You remain eligible for up to \$208.00 in APTC.

You are eligible for 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.

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Summary

Your Medicaid Managed Care plan ended April 30, 2016.

You remain eligible for up to \$208.00 in APTC.

Your Medicaid Managed Care plan ended April 30, 2016.

You remain eligible for up to \$208.00 in APTC.

You are eligible for 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:

