



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

Notice of Decision

Decision Date: January 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010794

[REDACTED]

Dear [REDACTED],

On December 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 1, 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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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Issues

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

Did New York State of Health (NYSOH) properly determine that you were eligible to purchase a qualified health plan (QHP) at full cost as of July 1, 2016?

Did NYSOH properly determine that your child was eligible to enroll in a full price Child Health Plus plan or Child-Only QHP as of July 1, 2016?

Procedural History

On June 8, 2016, your NYSOH account was updated.

On June 9, 2016, NYSOH issued a notice stating that you and your child may be eligible for health insurance through NYSOH but more information was needed to make a determination. The notice directed you to submit additional income documentation before June 24, 2016, to confirm that the information provided in your application was accurate.

On June 9, 2016, NYSOH uploaded your 2015 Form 1040 Schedule E that was faxed to NYSOH ([REDACTED]).

On June 14, 2016, NYSOH issued a notice stating that you have submitted documentation to resolve an inconsistency with your application. However, the documentation submitted was insufficient to resolve the request. Additional proof of income is required to confirm and/or make an eligibility determination. The notice provided a chart of acceptable documentation.

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On June 29, 2016, NYSOH uploaded to your account the 2015 New York State Resident Income Tax Return that was faxed to NYSOH ([REDACTED]).

On June 30, 2016, NYSOH uploaded to your account the 2015 Form 1040 U.S. Individual Income Tax Return that was faxed to NYSOH ([REDACTED]).

On July 1, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to purchase a qualified health plan at full cost and your child was eligible to enroll in a full price Child Health Plus Plan or a Child-Only qualified health plan.

Also on July 1, 2016, NYSOH issued an enrollment notice confirming that you were enrolled in a QHP with an enrollment start date of July 1, 2016, and your child was enrolled in a Child Health Plus plan with an enrollment start date of August 1, 2016.

On July 11, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as the amount of financial eligibility you and your child were determined eligible to receive.

On November 30, 2016, additional income documentation was uploaded to your NYSOH account ([REDACTED]).

On December 16, 2016, NYSOH issued an eligibility determination notice stating that you and your child were eligible for Medicaid.

On December 22, 2016, you had a telephone hearing with a Hearing Officer from the 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 are applying for health insurance through NYSOH for yourself and your twelve-year-old child.
2. According to your NYSOH account and testimony, you plan on filing a 2016 federal income tax return, with the tax status of Head of Household (with qualifying individual), and expect to claim one dependent on that return.
3. According to your June 8, 2016, NYSOH application, you attested to a 2016 expected household income of -\$5,000.00. You expected \$70,000.00 in income from rental [REDACTED], [REDACTED], [REDACTED],

- ██████████, and expected to deduct \$75,000.00 in the deductible part of self-employment (S/E) tax.
4. On June 14, 2016, NYSOH issued a notice stating that the documentation submitted was insufficient to confirm your eligibility or to make an eligibility determination. That notice provided a list of acceptable documentation that may be submitted to confirm your and your child's eligibility. The list included your most recent signed and filed taxes if representative of expected income (██████████).
 5. You faxed to NYSOH your 2015 Form 1040 U.S. Individual Income Tax Return. That return indicated an adjusted gross income of \$283,484.00.
 6. You reside in ██████████, New York.
 7. You testified that you have between \$4,000.00 and \$5,000.00 in outstanding medical bills that were not covered by your health plan through NYSOH.
 8. You testified that your 2015 federal income tax return does not accurately reflect your 2016 income because you sold your residence in 2015.
 9. On November 30, 2016, you uploaded income documentation to your NYSOH account to demonstrate your income (██████████).
 10. On December 15, 2016, your NYSOH account was updated to reflect that you and your child were eligible for Medicaid.

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

Applicable Law and Regulations

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f); 42 CFR § 435.952).

Modified Adjusted Gross Income

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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 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, and deductions attributable to royalties (26 USC § 62(a)).

Advance Premium Tax Credit

Advance 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

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application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

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)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% up to 400%, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)). If the family household income exceeds 400%, the premium is at full price per month.

In an analysis of Child Health Plus 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 was \$16,020.00 for a two-person household (81 Fed. Reg. 4036).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible to purchase a qualified health plan at full cost as of July 1, 2016.

Based on your June 8, 2016 application, NYSOH issued a notice stating that your and your child's application was reviewed but more information was needed to make a determination.

If NYSOH cannot verify the income information required to determine eligibility, they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

On June 14, 2016, NYSOH issued a notice directing you to submit income documentation to confirm that the information you provided in your application was accurate. The documentation list included your recent signed and filed taxes if representative of expected income.

In response to this notice, you faxed to NYSOH your 2015 Form 1040 U.S. Individual Income Tax Return, which indicated an adjusted gross income of \$283,484.00. Based on the documentation submitted, NYSOH updated your NYSOH account.

You expect to file your 2016 federal income tax return, with the tax status of Head of Household (with qualifying individual), and expect to claim one dependent on that tax return. Therefore, you a tax household of two.

An annual income of \$283,484.00 is 1779.56% of the 2015 FPL for a two-person household. At 1779.56% of the FPL, NYSOH properly determined that your income exceeded 400% of the FPL, and that you were not eligible for APTC using the documentation provided to NYSOH.

You were also found ineligible for cost-sharing reductions. As a threshold matter, cost-sharing reductions are available to a person who is eligible to receive APTC. Since it was determined that you were over-income for and not eligible to receive APTC, NYSOH also properly determined that you were not eligible for cost-sharing reductions. Therefore, NYSOH properly determined that you were eligible to enroll in a QHP at full cost as of July 1, 2016.

The second issue under review is whether NYSOH properly determined that your child was eligible to enroll in Child Health Plus at full cost.

According to the record, you expect to file your 2016 federal income tax return, with the tax status of Head of Household (with qualifying individual), and claim your child as a dependent. Therefore, your child is in a two-person household for purposes of this analysis.

A child is eligible to enroll in Child Health Plus and premium assistance if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the applicable FPL. When household income

exceeds 400% of that FPL, the parents are responsible for the full price of the monthly CHP premium payment.

On the date of your application, the relevant FPL was \$16,020.00 for a two-person household. Since \$283,484.00 is 1769.56% of the 2016 FPL, which exceeded 400% of the FPL, NYSOH properly found your child to be eligible for Child Health Plus at full cost.

Since the July 1, 2016 eligibility determination properly stated that you were eligible to enroll in a qualified health plan at full cost and your child was eligible to enroll in Child Health Plus at full cost through NYSOH, it is correct and **AFFIRMED**.

You testified that your 2015 federal income tax return does not accurately reflect your 2016 income because you sold your residence in 2015. Subsequent to your appeal request, you uploaded additional income documentation to your NYSOH account, and you and your child were found Medicaid eligible. Since your NYSOH account has been updated based on the additional documentation, your and your child's eligibility does not need to be redetermined.

You testified that you have approximately \$4,000.00 to \$5,000.00 in outstanding medical bills that have not been covered by your health plan through NYSOH. Your case is **RETURNED** to NYSOH's Plan Management Unit to ensure that your health plan is covering all the appropriate medical costs under your plan.

Decision

The July 1, 2016 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH's Plan Management Unit to ensure that your health plan is covering all the appropriate medical costs under your plan.

Effective Date of this Decision: January 31, 2017

How this Decision Affects Your Eligibility

This decision does not change your and your child's eligibility.

You were eligible to enroll in a QHP at full cost and ineligible for financial assistance through NYSOH as of July 1, 2016.

Your child was eligible to enroll in a Child Health Plus plan at full cost as of July 1, 2016.

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).

This decision does not affect any eligibility determination made after your appeal request.

Your case is returned to NYSOH's Plan Management Unit to ensure that your health plan is covering all the appropriate medical costs under your plan.

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 after the date 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 date 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 July 1, 2016 eligibility determination notice is **AFFIRMED**.

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This decision does not change your and your child's eligibility.

You were eligible to enroll in a QHP at full cost and ineligible for financial assistance through NYSOH as of July 1, 2016.

Your child was eligible to enroll in a Child Health Plus plan at full cost as of July 1, 2016.

This decision does not affect any eligibility determination made after your appeal request.

Your case is RETURNED to NYSOH's Plan Management Unit to ensure that your health plan is covering all the appropriate medical costs under your plan.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

