



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

Notice of Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011012

[REDACTED]

[REDACTED]

On January 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s July 22, 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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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 that you and your spouse were eligible to enroll in qualified health plans at full cost, effective September 1, 2016?

Procedural History

On July 21, 2016, NY State of Health (NYSOH) received your updated application for health insurance.

On July 22, 2016, NYSOH issued a notice of eligibility determination, based on the July 21, 2016 updated application, stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NYSOH, effective September 1, 2016. The notice further stated that you and your spouse did not qualify to receive a tax credit to help pay for the cost of health coverage because the income amount you provided in your application, \$64,820.00, was over the \$63,720.00 allowable income limit for the program.

Also on July 22, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you and your spouse were ineligible to receive advance premium tax credits (APTC) to help pay for the cost of your health coverage.

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On January 5, 2017, 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 married filing jointly. You will claim no dependents on that tax return.
- 2) You are seeking insurance for you and your spouse.
- 3) You testified, and the record reflects, that you submitted an application on July 1, 2016 listing annual household income of \$64,820.00, consisting of \$37,780.00 you earn from your employment and \$27,040.00 your spouse earned from his employment. You testified that this amount was correct.
- 4) The record reflects that on July 21, 2016, you updated your account and an application was submitted on your behalf with income information identical to the July 1, 2016 application.
- 5) You testified that you are seeking an increased level of APTC for you and your spouse to help pay for the cost of health coverage.
- 6) You testified that you and your spouse have extensive monthly expenses including rent, student loan payments, and grocery bills and you want these expenses considered when calculating the amount of APTC you qualify for.
- 7) Your application states, and you testified, that you will be taking a \$2,000.00 student loan deduction on your 2016 tax return.
- 8) Your application states that you live in Kings 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

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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)).

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 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)).

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 \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

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).

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 issue is whether NYSOH properly determined that you and your spouse were eligible to enroll in qualified health plans at full cost, effective September 1, 2016.

In the application that was submitted on July 21, 2016, you attested to an expected yearly income of \$64,820.00, and the eligibility determination relied upon that information. During the hearing, you testified that the amount you provided in your application was correct. However, you testified that you and your spouse have extensive monthly expenses including rent, student loan interest, and grocery bills and you want these expenses considered when calculating the amount of APTC you qualify 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 determined your household income to be \$64,820.00, which already has your \$2,000.00 student loan interest deduction included.

You are in a two-person household. You expect to file your 2016 income taxes as married filing jointly and will claim no dependents on that tax return. You are seeking insurance for you and your spouse.

APTC are generally available to a person who is eligible to enroll in a QHP and (1) expects to have a household income between 138% and 400% of the applicable 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.

In an analysis of APTC eligibility, the determination is based on the Federal Poverty Line (FPL) for the first day of the open enrollment period of the benefit

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year for which coverage is requested. On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household. The income amount included in your July 21, 2016 application, \$64,820.00, is 406.90% of the 2015 FPL for a two-person household. As APTC is only available to individuals who expect to have a household income less than 400% of the FPL, you were not eligible to receive APTC to help pay for the cost of health coverage.

Since the July 22, 2016 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible to enroll in qualified health plans at full cost, effective September 1, 2016, 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

The July 22, 2016 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: January 17, 2017

How this Decision Affects Your Eligibility

You and your spouse remain eligible to enroll in qualified health plans at full cost.

You and your spouse are not eligible for APTC.

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

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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 July 22, 2016 eligibility determination notice is AFFIRMED.

You and your spouse remain eligible to enroll in qualified health plans at full cost.

You and your spouse are not eligible for APTC.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

