



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: AP000000011039

[REDACTED]

Dear [REDACTED],

On December 27, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 13, 2016 eligibility redetermination 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.

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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Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you and your spouse were eligible to share up to \$241.00 per month in advance payments of the premium tax credit, effective June 1, 2016 through July 31, 2016?

Procedural History

On December 4, 2015, NY State of Health (NYSOH) issued an eligibility determination notice that stated you, your spouse and your daughter were eligible to share up to \$624.00 per month in advance payments of the premium tax credit (APTC) effective January 1, 2016, based on attested household income of \$61,606.00 for 2016 and a four-person household.

On April 21, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were enrolled in a couple's silver-level qualified health plan (QHP), effective January 1, 2016, and that your shared APTC of \$416.00 would be applied as of June 1, 2016. There was no corresponding eligibility redetermination notice.

On May 11 and 13, 2016, NYSOH issued eligibility redetermination notices each stating that you and your spouse were eligible to share in \$241.00 per month in APTC, effective June 1, 2016, based on attested household income of \$61,606.00 and a three-person household.

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On May 11, 2016, NYSOH issued a disenrollment notice stating that your and your spouse's coverage in the couple's silver-level QHP would end May 31, 2016.

On May 13, 2016, NYSOH issued an enrollment confirmation notice stating that you and your spouse were re-enrolled in the same couple's silver-level QHP, effective June 1, 2016, and that your APTC of \$241.00 per month would be applied as of that date.

On July 25, 2016, you spoke with NYSOH's Account Review Unit and appealed the amount of APTC to which you and your spouse were entitled for the months of June 2016 and July 2016 insofar as you were redetermined eligible to share in \$241.00 per month and wanted \$416.00 per month applied.

On December 27, 2016, 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 one dependent, your mother, on that tax return.
- 2) You testified that your and your spouse's eligibility for and enrollment in a QHP with APTC was affected and changed in April 2016 and May 2016 when your daughter turned 30 years of age and was put on her own account.
- 3) The applications that were submitted on all relevant dates listed annual household income of \$61,606.00. You testified that this amount was correct.
- 4) You testified that only you needed health insurance through NYSOH once your spouse turned 65 years of age and he became Medicare eligible as of November 1, 2016.
- 5) You are disputing the amount of APTC that you and your spouse were eligible to share in for the months of June 2016 and July 2016, and would like the monthly amount adjusted from \$241.00 per month to \$416.00, as stated in the April 21, 2016 enrollment confirmation notice.

- 6) You submitted to the Appeals Unit a copy of your payment history with your insurance carrier and feel that they have overcharged you your share of monthly premiums.
- 7) According to your NYSOH account, you and your spouse reside in Westchester County, New York.
- 8) Your application states that you will not be taking any deductions on your 2016 tax return.

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

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 May 9, 2016 updated application, that was the 2015 FPL, which is \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 300% but less than 300% of the 2015 FPL, the expected contribution in 2016 is 9.66% 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).

Legal Analysis

The first issue is whether NYSOH properly redetermined that you and your spouse were eligible for an APTC of up to \$214.00 per month.

The application that was updated on May 9, 2016 listed an annual household income of \$61,606.00 and the eligibility determination relied upon that information.

At that time, your household size had changed from four people to three people because your daughter turned 30 years of age and was put on her own NYSOH account with individual coverage. Therefore, based on the information that you expect to file your 2016 income taxes as married filing jointly and will claim one dependent, your mother, on that tax return, you and your spouse were in a three-person household at the time your APTC was redetermined to be \$241.00. According to your updated NYSOH account, only you and your spouse were seeking health insurance at that time.

You reside in Westchester County, where the second lowest cost silver plan available for a couple through NYSOH costs \$736.52 per month.

An annual income of \$61,606.00 is 306.65% of the 2015 FPL for a three person household. At 306.65% of the FPL, the expected contribution to the cost of the health insurance premium is 9.66% of income, or \$495.93 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 a couple in your county (\$736.52 per month) minus your expected contribution (\$495.93 per month), which equals \$240.59 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your spouse to be eligible to share in up to \$241.00 per month in APTC.

It appears that the April 21, 2016 enrollment confirmation notice showing an APTC of \$416.00 was based on a four-person household and, therefore was issued in error.

Since the May 11 and 13, 2016 eligibility redetermination notices and May 13, 2016 enrollment confirmation notice properly stated that, based on the information you provided, you and your spouse were eligible to share in up to \$241.00 per month in APTC as of June 1, 2016, those notices are correct and are AFFIRMED.

However, you testified and submitted documentary evidence, that your health plan continued to deduct a larger monthly premium from your bank account and, despite your efforts to get an explanation and/or a refund, the health plan insists that your premium has been calculated correctly without providing a breakdown or further explanation. This matter is not one over which NYSOH Appeals Unit has jurisdiction.

Since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and/or premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

Decision

The May 11 and 13, 2016 eligibility redetermination notices and May 13, 2016 enrollment confirmation notice are AFFIRMED.

Effective Date of this Decision: January 17, 2017

How this Decision Affects Your Eligibility

You and your spouse were properly determined to be eligible for \$241.00 and had \$241.00 in APTC applied to your monthly premiums in June 2016 and July 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).

Since your billing and payment issues concern a health insurer and/or payment, reimbursement, coverage, benefits, rates and/or premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

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:
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Summary

The May 11 and 13, 2016 eligibility redetermination notices and May 13, 2016 enrollment confirmation notice are AFFIRMED.

You and your spouse were properly determined to be eligible for \$241.00 and had \$241.00 in APTC applied to your monthly premiums in June 2016 and July 2016.

Since your billing and payment issues concern a health insurer and/or payment, reimbursement, coverage, benefits, rates and/or premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

Legal Authority

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

A Copy of this Decision Has Been Provided To:

