



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

Notice of Decision

Decision Date: January 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011336

[REDACTED]

Dear [REDACTED],

On December 30, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 9, 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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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 your spouse was eligible to receive up to \$182.00 per month in advance payments of the premium tax credit, effective September 1, 2016?

Did NY State of Health properly determine that your spouse was eligible for cost-sharing reductions?

Procedural History

On December 30, 2015, NY State of Health (NYSOH) issued an eligibility redetermination notice stating that you and your spouse were newly eligible to share in up to \$551.00 per month in advance payments of the premium tax credit (APTC) and eligible for cost sharing reductions (CSR), effective February 1, 2016.

Also on December 30, 2015, NYSOH issued an enrollment notice confirming that you and your spouse were enrolled in a couple's silver-level qualified health plan (QHP) with a monthly premium of \$789.46, effective January 1, 2016.

On August 8, 2016, your NYSOH application was updated and your spouse was preliminarily determined eligible to receive up to \$182.00 per month in APTC and eligible for CSR effective September 1, 2016

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Also on August 8, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you disagreed with the APTC amount to which your spouse was entitled and wanted her eligibility redetermined for an increase in APTC.

On August 9, 2016, NYSOH issued a disenrollment notice stating that your enrollment in your couple's QHP would end effective August 31, 2016. This was because you were no longer eligible to enroll in health insurance through NYSOH.

Also on August 9, 2016, NYSOH issued an eligibility redetermination notice stating that your spouse was eligible to receive up to \$182.00 per month in APTC and eligible for CSR, effective September 1, 2016, based on attested household income of \$33,236.00.

Also on August 9, 2016, NYSOH issued an enrollment notice confirming that your spouse was enrolled in an individual silver-level QHP with a monthly premium of \$212.73 per month after the \$182.00 in APTC was applied, effective September 1, 2016.

On December 30, 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) According to your NYSOH account, you and your spouse expect to file your 2016 taxes with a tax filing status of married filing jointly and will not be claiming any dependents on that tax return.
- 2) You are seeking to have the APTC amount for your spouse redetermined for an increase so that the monthly premium is more affordable.
- 3) The application that was submitted on August 9, 2016 listed annual household income of \$33,236.00. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return.
- 5) Your application states that you and your spouse live in Westchester County, New York.

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 application, that was the 2015 FPL, which is \$15,930.00 for a two-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).

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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)).

Legal Analysis

The first issue is whether NYSOH properly determined that your spouse was eligible for an APTC of up to \$182.00 per month.

The application that was submitted on August 8, 2016 listed an annual household income of \$33,236.00 and the eligibility determination relied upon that information.

Your spouse is in a two-person household for purposes of this analysis. This is based on you expecting to file your 2016 income taxes as married filing jointly with no dependents.

You and your spouse reside in Westchester County, where the second lowest cost silver plan available for an individual through NYSOH costs \$368.26 per month.

An annual income of \$33,236.00 is 208.64% of the 2015 FPL for a two-person household. At 208.64% of the FPL, the expected contribution in 2016 to the cost of the health insurance premium is 6.72% of income, or \$186.12 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 (\$186.12 per month), which equals \$182.14 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined your spouse to be eligible for up to \$182.00 per month in APTC.

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The second issue is whether your spouse was properly found eligible for CSR. 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 \$33,236.00 is 208.64% of the applicable FPL, NYSOH correctly found your spouse to be eligible for cost sharing reductions.

Since the August 9, 2016 eligibility redetermination notice properly stated that, based on the information you provided, your spouse was eligible for up to \$182.00 per month in APTC and eligible for CSR, effective September 1, 2016, it is correct and is AFFIRMED.

Decision

The August 9, 2016 eligibility redetermination notice is AFFIRMED.

Effective Date of this Decision: January 24, 2017

How this Decision Affects Your Eligibility

Your spouse became eligible to receive up to \$182.00 per month in APTC and eligible for CSR, effective September 1, 2016.

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

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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 August 9, 2016 eligibility redetermination notice is AFFIRMED.

Your spouse became eligible to receive up to \$182.00 per month in APTC and eligible for CSR, effective September 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

