



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

Notice of Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011412

[REDACTED]

Dear [REDACTED],

On January 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 12, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011412

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly calculate your household's Modified Adjusted Gross Income that was used when determining your eligibility for financial assistance?

Procedural History

On August 11, 2016, NYSOH received your completed application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible for advanced premium tax credits (APTC) in an amount of up to \$186.00 per month and cost sharing reductions, effective September 1, 2016.

Also on August 11, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your request for additional financial assistance.

On August 12, 2016, NYSOH issued an eligibility determination notice based on the information contained in the August 11, 2016 application, stating that you were eligible for APTC in an amount of up to \$186.00 per month and cost sharing reductions, effective September 1, 2016.

On January 11, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open for up to fifteen days to allow you time to submit proof of your child's income for 2016.

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On January 25, 2017, you submitted your 2016 W-2 Wage and Tax Statement and your child's 2016 W-2 Wage and Tax Statement. This evidence was made part of the record as "Appellant's Exhibit A." The record remained open until January 26, 2017 and no other documents were submitted. The record is now closed.

Findings of Fact

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

- 1) You are seeking insurance for yourself.
- 2) You testified that you expect to file your 2016 taxes with a tax filing status of head of household. You will claim one dependent on that tax return.
- 3) The application that was submitted on August 11, 2016 listed annual household income of \$35,066.44, consisting of \$28,600.00 you earn from your employment and \$6,466.44 your child receives in income.
- 4) You testified that your income at the time of your application was correct, but that NYSOH incorrectly calculated your child's income because of additional hours she worked in August 2016, while on school break. As a result of these large paystubs, NYSOH calculated that your child would earn \$6,466.44 in 2016.
- 5) You testified that you were told your child's income would not be used to determine your eligibility.
- 6) You testified that you and your child have no other sources of income.
- 7) On January 25, 2017, you submitted your 2016 W-2 Wage and Tax Statement reflecting that your income for 2016 was \$33,151.06 and your child's 2016 W-2 Wage and Tax Statement reflecting that your child's income for 2016 was \$5,962.47 (see Appellant's Exhibit A). You testified that you received a raise in September 2016 which resulted in an increase in income for the 2016 tax year, but that your income attested to on your application in August 2016 was accurate at the time.
- 8) According to your NYSOH account and your testimony, you will not be taking any deductions on your 2016 income tax return.
- 9) According to your NYSOH account and your testimony, you live in [REDACTED] County.

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)).

Eligibility for APTC is based on the taxpayer's modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a)). Generally, MAGI is your adjusted gross income plus any non-taxable Social Security income, non-taxable interest income, and non-taxable foreign income that you receive (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

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)).

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)).

With regard to eligibility for financial assistance through NYSOH, a tax filer's household income includes the MAGI of all the individual's in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.46B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

The IRS determines whether a dependent is required to file an income tax return based on the amount of the dependent's earned and unearned income, marital

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status, age and whether or not that dependent is blind. In cases where the dependent is under the age of 65, not blind and earns an income \$6,300.00 or higher during the 2016 income tax year (or unearned income in the amount of \$1,050 or higher), that dependent is required to file an income tax return for 2016 (IRS Pub. 929).

Unearned income is generally all income other than salaries, wages and other amounts received as pay for work actually performed, including the taxable part of Social Security and pension payments (IRS Pub. 929).

For the purposes of determining a person's eligibility for financial assistance for health insurance through NYSOH, the term "MAGI" 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)).

Legal Analysis

The sole issue is whether NYSOH properly calculated your household's MAGI that was used when determining your eligibility for financial assistance.

The application that was submitted on August 11, 2016 listed an annual household income of \$35,066.44, consisting of \$28,600.00 you earn from your employment and \$6,466.44 your child receives in earned income and the eligibility determination relied upon that information.

However, household income for the purposes of calculating a person's eligibility for financial assistance to help pay for the costs of health insurance through NYSOH, consists of the modified adjusted gross income of all tax filers in a household who are required to file a tax return. You testified that your income at the time of your application was correct, but that NYSOH incorrectly counted your child's income in your eligibility determination because of additional hours she worked in August 2016 while on school break. This resulted in a calculation that your child would earn \$6,466.44 in 2016.

A dependent is required to file a tax return for 2016 when their earned income is greater than \$6,300.00. On the date of your application, NYSOH calculated that your child had annual income of \$6,466.44. At an income over \$6,300.00, she would be required to file a tax return and her income would therefore be included in the household's income.

However, on January 25, 2017, you submitted your child's 2016 W-2 Wage and Tax Statement reflecting that showed your child's income for 2016 was

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\$5,962.47 (see Appellant's Exhibit A). Since this amounts are under \$6,300.00, she is NOT required to file a tax return on the basis of her earned income and it should NOT be included in the household's income for the purposes of determining your eligibility through NYSOH.

Therefore, the August 12, 2016 eligibility determination is RESCINDED because your child's income should not have been included in your household's income in determining your eligibility for financial assistance in 2016.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as an individual, who resides in [REDACTED] County, is in a two-person household, and has an expected household income of \$28,600.00.

Decision

The August 12, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as an individual, who resides in [REDACTED] County, is in a two-person household, and has an expected household income of \$28,600.00.

Effective Date of this Decision: February 1, 2017

How this Decision Affects Your Eligibility

This decision is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance as an individual, who resides in [REDACTED] County, is in a two-person household, and has an expected household income of \$28,600.00.

Once a redetermination has been made, NYSOH will issue you a redetermination notice which will contain further information.

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

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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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 12, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance as an individual, who resides in ██████ County, is in a two-person household, and has an expected household income of \$28,600.00.

This decision is not a final determination of your eligibility.

Your case is being sent back to NYSOH to redetermine your eligibility for financial assistance as an individual, who resides in ██████ County, is in a two-person household, and has an expected household income of \$28,600.00.

Once a redetermination has been made, NYSOH will issue you a redetermination notice which will contain further information.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

