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

Notice of Decision

Decision Date: March 01, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000011693

[redacted]

Dear [redacted],

On January 23, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's August 16, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: March 01, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000011693

[redacted]

Issues

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

> Did NY State of Health properly determine you were eligible to receive up to $237.00 per month in advance payments of the premium tax credit, effective September 1, 2016?
>
> Did NY State of Health properly determine you were eligible for cost-sharing reductions?
>
> Did NY State of Health properly determine you were not eligible for Medicaid?

Procedural History

On September 17, 2015, NYSOH issued a notice of eligibility determination stating you were eligible for Medicaid, effective September 1, 2015. The notice indicated you qualified for Medicaid because your household income of $9,011.00 was at or below the allowable income limit of $16,243.00.

On January 1, 2016, NYSOH issued a notice of enrollment confirmation stating you were enrolled in a Medicaid Managed Care plan, effective February 1, 2016.

On August 9, 2016, NYSOH issued a notice of eligibility determination, based on your August 8, 2016 updated application, stating you were newly eligible to receive advance payments of the premium tax credit (APTC) of up to $150.00 monthly, effective September 1, 2016. The notice indicated you were not eligible

for cost-sharing reductions because your household income of $32,600.00 was over the allowable income limit of $29,425.00. Additionally, the notice stated you were not eligible for Medicaid because your household income was over the allowable limit of $16,395.00.

Also on August 9, 2016, NYSOH issued a notice of disenrollment stating coverage under your Medicaid Managed Care plan was terminated, effective August 31, 2016, because you were no longer eligible to remain enrolled in your plan.

On August 16, 2016, NYSOH issued a notice of eligibility determination, based on your August 15, 2016 updated application, stating you were eligible to receive APTC of up to $237.00 monthly, effective September 1, 2016. The notice further stated you were newly eligible to receive cost-sharing reductions if you selected a silver-level qualified health plan because your household income of $26,170.00 was within the allowable income limit of $29,425.00. The notice also indicated you were not eligible for Medicaid because your household income was over the allowable income limit of $16,395.00.

Also on August 16, 2016, NYSOH issued a notice of enrollment confirmation stating you were enrolled in a qualified health plan with a $137.89 monthly premium responsibility, effective September 1, 2016.

On August 25, 2016, you contacted NYSOH's Account Review Unit and appealed the August 16, 2016 eligibility determination notice insofar as you were not eligible for Medicaid.

On January 23, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open for you to submit documentation of your income for the month of August 2016. On February 6, 2017, you uploaded five paystubs to your NYSOH account. Thereafter, the record was closed.

Findings of Fact

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

1) You testified you expect to file your 2016 taxes with a tax filing status of single and will claim no dependents on that tax return.

2) You are seeking insurance for yourself.

3) The record reflects you qualified for Medicaid in September 2015 with an attested annual household income of $9,011.00.

4) On August 8, 2016, you updated your application by increasing your attested annual household income to $32,600.00, and you were determined newly eligible for APTC of up to $150.00 monthly.

5) On August 15, 2016, you again updated your application by decreasing your attested annual household income to $26,170.00. You testified, and the application indicates, this amount consisted of income earned from your full-time job and a part-time job. You testified this annual income amount "sounds right."

6) You testified you were paid weekly at both your part-time and full-time job.

7) You testified your part-time job ended at the beginning of August 2016.

8) You testified you have only earned income from your full-time job since this time.

9) You testified your past paycheck from your part-time job was around August 17, 2016.

10) You were directed to provide proof of your income for the month of August 2016.

11) On February 6, 2017, you uploaded to your NYSOH account the following:

a. Paystub from your full-time job with check date August 2, 2016 in the gross amount of $576.71.
b. Paystub from your full-time job with check date August 9, 2016 in the gross amount of $575.14.
c. Paystub from your full-time job with check date August 16, 2016 in the gross amount of $577.50.
d. Paystub from your full-time job with check date August 23, 2016 in the gross amount of $735.00.
e. Paystub from your full-time job with check date August 30, 2016 in the gross amount of $735.00.

12) NYSOH Appeals Unit received no documentation pertaining to your part-time job.

13) You testified, and your application indicates, you will take any deductions on your 2016 tax return.

14) Your application states you live in [redacted] County.

15) You testified, and the documentation submitted indicates, you pay $67.00 weekly in [redacted].

16) You testified you are seeking eligibility for Medicaid because you have extensive monthly expenses including child support, bills, food and gas and, therefore, your income is insufficient to afford the premiums of a qualified health plan.

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

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 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)).

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 $11,770.00 for a one-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).

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)).

Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise

eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In an analysis of Medicaid 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 is $11,880.00 for a one-person household (81 Fed. Reg. 4036).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

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 first issue is whether NYSOH properly determined you were eligible for an APTC of up to $237.00 per month.

The updated application submitted on August 15, 2016 listed an annual household income of $26,170.00. You testified this amount sounded correct and the eligibility determination relied upon that information. However, during the hearing, you testified you have extensive monthly expenses, including child support, and therefore your income is insufficient to afford the premiums of a qualified health plan.

Since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable, 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. Similarly, child support payments are not an allowable deduction. Therefore, NYSOH correctly determined your household income to be $26,170.00.

You are in a one-person household. You expect to file your 2016 income taxes as single and will claim no dependents on that tax return.

You reside in [redacted] County, where the second lowest cost silver plan available for an individual through NYSOH costs $393.63 per month.

An annual income of $26,170.00 is 222.34% of the 2015 FPL for a two-person household. At 222.34% of the FPL, the expected contribution to the cost of the health insurance premium is 7.20% of income, or $157.02 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 ($393.63 per month) minus your expected contribution ($157.02 per month), which equals $236.61 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to $237.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions.

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 $26,170.00 is 222.34% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The third issue is whether NYSOH properly determined you were ineligible for Medicaid.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was $11,880.00 for a one-person household. Since $26,170.00 is 220.21% of the 2016 FPL, NYSOH properly found you ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. As your updated application was submitted August 15, 2016, your income for the month of August 2016 is determinative.

You submitted five paystubs from your full-time employer with check dates in the month of August 2016, establishing you received $3,199.35 in gross income from this employer in August 2016.

However, you testified you also worked a part-time job ending in early August 2016. You testified you received a weekly paycheck from this employer with your final paycheck dated on or about August 17, 2016. You failed to submit evidence of income earned in the month of August 2016 from this employer. Accordingly, the record is insufficient to determine the total amount of income you earned in the month of August 2016.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is $1,367.00 per month. Notwithstanding the aforementioned lack of evidence, the documentation submitted establishes you earned at least $3,199.35 in gross income in the month of August 2016, even without considering your part-time job. This amount is over the allowable income limit for Medicaid. Accordingly, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the August 16, 2016 eligibility determination properly stated, based on the information you provided, you were eligible for up to $237.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, 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 2015, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

Decision

The August 16, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 01, 2017

How this Decision Affects Your Eligibility

You remain eligible for up to $237.00 in APTC and for cost-sharing reductions.

You are ineligible for Medicaid.

If You Disagree with this Decision (Appeal Rights)

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 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:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The August 16, 2016 eligibility determination notice is AFFIRMED.

You remain eligible for up to $237.00 in APTC and for cost-sharing reductions.

You are ineligible for Medicaid.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

[redacted]

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