



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

## Notice of Decision

Decision Date: January 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012059

[REDACTED]

Dear [REDACTED],

On December 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 25, 2016 eligibility determination 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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DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: [REDACTED]

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012059

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that you and your spouse were eligible to receive up to \$556.00 per month in advance payments of the premium tax credit, effective October 1, 2016?

Did NYSOH properly determine that you and your spouse were eligible for cost-sharing reductions, effective October 1, 2016?

Did NYSOH properly determine that you and your spouse were not eligible for Medicaid?

## Procedural History

On October 29, 2015, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for Medicaid, effective October 1, 2015.

On October 30, 2015, NYSOH issued an enrollment notice confirming your selection of a Medicaid Managed Care (MMC) plan on October 29, 2015. This notice confirmed that the MMC plan coverage for you and your spouse would begin effective December 1, 2015.

On August 3, 2016, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you and your spouse would qualify for financial help paying for

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your health coverage, and that you needed to update your account by September 15, 2016 or you and your spouse might lose the financial assistance currently being received.

On August 19, 2016, NYSOH received two updates to your application for health insurance.

Also on August 19, 2016, NYSOH received a copy of your U.S. Individual Income Tax Return for 2015 (Form 1040).

On August 20, 2016, NYSOH issued an eligibility determination notice based on the information contained in the final update received in connection with your August 19, 2016 application. The notice stated that you and your spouse were newly conditionally eligible for up to \$556.00 per month in advance payments of the premium tax credit (APTC) and, if you selected a silver-level plan, newly conditionally eligible for cost-sharing reductions (CSR), effective October 1, 2016. The notice also stated that in order to confirm the eligibility of you and your spouse, you were requested to provide income documentation by November 17, 2016.

Also on August 20, 2016, NYSOH issued a disenrollment notice confirming that the MMC plan coverage for you and your spouse would end effective September 30, 2016

On August 22, 2016, NYSOH received a duplicate copy of your U.S. Individual Income Tax Return for 2015 (Form 1040).

Also on August 22, 2016, NYSOH received an updated to your application for health insurance.

On August 23, 2016, NYSOH issued an eligibility determination notice based on the information contained in the August 22, 2016 application. The notice stated that you and your spouse were conditionally eligible for an APTC of up to \$556.00 per month and, if you selected a silver-level plan, conditionally eligible for CSR, effective October 1, 2016. The notice also stated that in order to confirm the eligibility of you and your spouse, you were requested to provide income documentation by November 17, 2016.

On August 24, 2016, NYSOH reran your eligibility based on the information contained in your account as of August 22, 2016. In response to this rerun of eligibility, NYSOH prepared a preliminary eligibility determination stating that you and your spouse were eligible for an APTC of up to \$556.00 per month and, if your selected a silver-level plan, eligible for CSR, effective October 1, 2016. This preliminary eligibly determination did not make a decision on whether you were eligible for Medicaid.

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On August 25, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible for an APTC of up to \$566.00 per month and, if you selected a silver-level plan, eligible for CSR, effective October 1, 2016.

On September 19, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you and your spouse were not found eligible for Medicaid.

On December 19, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: a summary documenting all earnings and expenses you and your spouse received during the month of August 2016. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On January 3, 2017, you provided to the Appeals Unit through your NYSOH account: (1) a category summary of deposits and payments between January 1, 2016 and December 31, 2016, (2) a PayPal transaction history for the period between January 1, 2016 and December 31, 2016, (3) two PayPal transaction history reports for the period between August 1, 2016 and August 31, 2016, (4) multiple Venmo Account History reports for the period between January 1, 2016 and December 31, 2016, (5) a category summary of deposits and payments between August 1, 2016 and August 31, 2016 and (6) a Regions Bank checking account summary for the period between July 21, 2016 and August 22, 2016.

Accordingly, the record was closed on January 3, 2017.

## **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) The application that was submitted on August 22, 2016 listed annual household income of \$32,806.04, consisting of (1) an average net income of \$563.00 per month you received from your business during the months of May, June and July 2016, (2) an average net income of \$772.67 per month your spouse received from her business during the months of May, June and July 2016, (3) \$1,850.00 in taxable IRA distributions received (4) \$8,786.00 in rental property income, and (5) business expense deductions

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totaling \$14,208.00. You testified that these amounts were correct when provided on August 22, 2016.

- 4) On August 19, 2016, you provided to NYSOH a copy of your 2015 tax return reflecting that your adjusted gross income was \$38,652.00.
- 5) You and your spouse live in [REDACTED], New York.
- 6) You testified that you and your spouse are artists who typically receive royalties based on work performed. You further testified that your income fluctuates widely based solely on the receipt of such royalties.
- 7) You testified, and the record reflects, that you and your spouse were previously eligible for Medicaid, and you were seeking to be found eligible for Medicaid during the remainder of 2016 and into 2017 based on your current earnings.
- 8) At the hearing, the Hearing Officer requested that you provided a detailed summary reflecting all income and expenses during the month of August 2016.
- 9) You provided as support for your case (1) a category summary of deposits and payments between January 1, 2016 and December 31, 2016, (2) a PayPal transaction history for the period between January 1, 2016 and December 31, 2016, (3) two PayPal transaction history reports for the period between August 1, 2016 and August 31, 2016, (4) multiple Venmo Account History reports for the period between January 1, 2016 and December 31, 2016, (5) a category summary of deposits and payments between August 1, 2016 and August 31, 2016 and (6) a Regions Bank checking account summary for the period between July 21, 2016 and August 22, 2016.

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

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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).

### 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

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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 \$16,020 for a two-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).

## **Legal Analysis**

The first issue is whether NYSOH properly determined that you and your spouse were eligible for an APTC of up to \$556.00 per month.

The application that was submitted on August 22, 2016 listed an annual household income of \$32,806.04, which consisted of (1) an average net income of \$563.00 per month you received from your business during the months of May, June and July 2016, (2) an average net income of \$772.67 per month your spouse received from her business during the months of May, June and July 2016, (3) \$1,850.00 in taxable IRA distributions received (4) \$8,786.00 in rental property income, and (5) business expense deductions totaling \$14,208.00.

The eligibility determination relied upon that information.

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 reside in [REDACTED], where the second lowest cost silver plan available for a couple through NYSOH costs \$736.52 per month.

An annual income of \$32,806.04 is 205.94% of the 2015 FPL for a two-person household. At 205.94% of the FPL, the expected contribution to the cost of the health insurance premium is 8.32% of income, or \$180.98 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 (\$180.98 per month), which equals \$555.54 per month. Therefore, rounding to the nearest

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dollar, NYSOH correctly determined you and your spouse to be eligible for up to \$556.00 per month in APTC.

The second issue is whether you and your spouse were properly found eligible for CSR.

CSR are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$32,806.04 is 205.94% of the applicable FPL, NYSOH correctly found you and your spouse to be eligible for CSR.

The third issue is whether NYSOH properly determined that you and your spouse 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 \$16,020.00 for a two-person household. Since \$32,806.04 is 204.78% of the 2016 FPL, NYSOH properly found you and your spouse to be 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.

On January 3, 2017, you submitted (1) a category summary of deposits and payments between January 1, 2016 and December 31, 2016, (2) a PayPal transaction history for the period between January 1, 2016 and December 31, 2016, (3) two PayPal transaction history reports for the period between August 1, 2016 and August 31, 2016, (4) multiple Venmo Account History reports for the period between January 1, 2016 and December 31, 2016, (5) a category summary of deposits and payments between August 1, 2016 and August 31, 2016 and (6) a Regions Bank checking account summary for the period between July 21, 2016 and August 22, 2016.

While the record reflects that you provided a category summary of deposits and payments for the period between August 1, 2016 and August 31, 2016, the documents you provided not only include potential income received, but also non-business expenses such as "Uncategorized" and "Mortgage" expenses, and various other expended that appear to be unrelated to either your or your spouse's businesses. Furthermore, we are unable to infer from the checking account reports and various PayPal and Venmo account history reports what monies should be included within the income you received during August 2016 for purposes of your respective businesses. Accordingly, we find these

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documents insufficient to determine your income and expenses for 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 \$1,842.00 per month. Since the documentation you provided does not permit us to determine your net income during 2016 after all business income and expenses are included, we are unable to assess the eligibility of you and your spouse for Medicaid during the month of August 2016.

Since the August 25, 2016 eligibility determination notice properly stated that, based on the information you provided, you and your spouse were eligible for up to \$556.00 per month in APTC, eligible for CSR, and ineligible for Medicaid, it is correct and is AFFIRMED.

Since you will not receive a copy of this Decision until after the open enrollment period has ended for 2017, you and your spouse are awarded a special enrollment period to provide you and your spouse an opportunity enroll in a health plan during 2017. You have 60 days from the effective date of this Decision to select a health plan.

## **Decision**

The August 25, 2016 eligibility determination notice is AFFIRMED.

Since you will not receive a copy of this Decision until after the open enrollment period has ended for 2017, you and your spouse are awarded a special enrollment period to provide you and your spouse an opportunity enroll in a health plan during 2017. You have 60 days from the effective date of this Decision to select a health plan.

**Effective Date of this Decision:** January 26, 2017

## **How this Decision Affects Your Eligibility**

You and your spouse remain eligible for an APTC up to \$556.00 per month and, if your select silver-level plan, remain eligible for CSR.

You and your spouse are ineligible for Medicaid.

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

## **Summary**

The August 25, 2016 eligibility determination notice is **AFFIRMED**.

Since you will not receive a copy of this Decision until after the open enrollment period has ended for 2017, you and your spouse are awarded a special enrollment period to provide you and your spouse an opportunity enroll in a

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health plan during 2017. You have 60 days from the effective date of this Decision to select a health plan.

You and your spouse remain eligible for an APTC up to \$556.00 per month and, if your select silver-level plan, remain eligible for CSR.

You and your spouse are ineligible for Medicaid.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

