



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

## Notice of Decision

Decision Date: January 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012066

[REDACTED]

[REDACTED]

On December 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 20, 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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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012066



## Issues

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

Did NY State of Health properly determine that you and your spouse were eligible to receive \$599.00 per month in advance payments of the premium tax credit, effective November 1, 2016?

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

Did NY State of Health properly determine that you and your spouse were not eligible for the Essential Plan?

## Procedural History

On September 19, 2016, NY State of Health (NYSOH) received your completed application for health insurance. That day, a preliminary eligibility determination was prepared, stating that you and your spouse were eligible to receive \$599.00 per month in advance payments of the premium tax credit and cost sharing reductions.

Also on September 19, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination.

On September 20, 2016, NYSOH issued an eligibility determination notice based on the information contained in the September 19, 2016 application, stating that you and your spouse were eligible for \$599.00 per month in advance payments

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of the premium tax credit and cost sharing reductions, effective November 1, 2015. The notice further stated that you and your spouse were ineligible for the Essential Plan because your income was over the allowable income limit for that program.

On December 15, 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) The application that was submitted on September 19, 2016 stated that you and your spouse expected to file your 2016 income tax return as married filing jointly. It further stated that you will not be claiming any dependents on that tax return.
- 2) You testified that you and your spouse are married but that you do not expect to file a joint 2016 tax return.
- 3) You are seeking insurance for yourself and your spouse.
- 4) The application that was submitted on September 19, 2016 listed annual household income of \$32,000.00, consisting of \$20,000.00 you earn from your employment and \$12,000.00 your spouse earns from her employment. You testified that these amounts were correct.
- 5) Your application states that you and your spouse will not be taking any deductions on your 2016 tax return.
- 6) You testified that you and your spouse were seeking a redetermination of your eligibility insofar as you both would like to be deemed eligible for the Essential Plan.
- 7) Your application states that you and your spouse live in Nassau 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)).

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).

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

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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)).

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), N.Y. Soc. Serv. Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

## Legal Analysis

The first issue is whether NYSOH properly determined that you and your spouse were eligible for an APTC of \$599.00 per month.

The application that was submitted on September 19, 2016 listed an annual household income of \$32,000.00 and the eligibility determination relied upon that information.

According to the September 19, 2016 application, you and your spouse are in a two-person household. That application stating that you and your spouse expect to file your 2016 income tax return as married filing jointly and that you will claim no dependents on that tax return.

You reside in Nassau County, where the second lowest cost silver plan available for a through NYSOH costs \$770.45 per month.

An annual income of \$32,000.00 is 200.88% of the 2015 FPL for a two-person household. At 200.88% of the FPL, the expected contribution to the cost of the health insurance premium is 6.44% of income, or \$171.73 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 primary subscriber and one dependent in your county (\$770.45 per month) minus your expected contribution (\$171.73 per month), which equals \$598.72 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your spouse to be eligible for up to \$599.00 per month in APTC.

The second issue is whether you and your spouse 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 \$32,000.00 is 200.88% of the applicable FPL, NYSOH correctly found you and your spouse to be eligible for cost sharing reductions.

The third issue is whether NYSOH properly determined that you and your spouse were ineligible for the Essential Plan. The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since an annual household income of \$32,000.00 is 200.88% of the 2015 FPL, NYSOH properly found you and your spouse to be ineligible for the Essential Plan.

Since the September 20, 2016 eligibility determination properly stated that, based on the information you provided, that you and your spouse were eligible

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\$599.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for the Essential Plan, it is correct and is AFFIRMED.

## **Decision**

The September 20, 2016 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** January 10, 2017

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

You and your spouse remain eligible for \$599.00 in APTC.

You and your spouse are eligible for cost-sharing reductions.

You and your spouse are ineligible for the Essential Plan.

This decision has no effect on your eligibility for the 2017 coverage year.

## **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.

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## **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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- By fax: 1-855-900-5557

## **Summary**

The September 20, 2016 eligibility determination notice is **AFFIRMED**.

You and your spouse remain eligible for \$599.00 in APTC.

You and your spouse are eligible for cost-sharing reductions.

You and your spouse are ineligible for the Essential Plan.

This decision has no effect on your eligibility for the 2017 coverage year.

## **Legal Authority**

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

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

