



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

Notice of Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012117

[REDACTED]

Dear [REDACTED],

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 22, 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
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Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012117

[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 share in up to \$261.00 per month in advance payments of the premium tax credit (APTC), effective November 1, 2016?

Did NYSOH properly determine that you were ineligible for cost-sharing reductions (CSR)?

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

Procedural History

On September 21, 2016, NYSOH received your completed application for health insurance. That day, a preliminary eligibility determination was prepared finding you and your spouse eligible to share in APTC of up to \$261.00 per month and ineligible for CSR, effective November 1, 2016.

Also on September 21, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your financial assistance.

On September 22, 2016, NYSOH issued an eligibility determination notice, consistent with the September 21, 2016 preliminary determination, stating that you were eligible to share with your spouse in APTC up to \$261.00 per month and ineligible for CSR, effective November 1, 2016.

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On January 3, 2017, you submitted proof of yours and your spouse's self-employment income for the months of September 2016 through December 2016, and a prospectus for the next three months of self-employment income, along with a letter from your spouse's former employer indicating his total amount of wage income earned from June 2016 through November 2016 (see Documents [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED]).

On January 20, 2017, you submitted a letter of termination from your former employer (see Document [REDACTED]).

On January 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open until February 5, 2017 for you to submit proof of your spouse's employment income for the months of September 2016 through December 2016.

On January 30, 2017, you submitted proof of your spouse's employment income for the months of November 2016 and December 2016. These documents were made part of the record as "Appellant's Exhibit A." No further documentation was received by February 5, 2017 and the record closed that day.

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 one dependent on that tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on September 21, 2016 listed annual household income of \$64,999.00, consisting of \$38,271.00 you earn from your employment and \$26,728.00 your spouse receives in employment. You testified that this amount would be higher at the end of 2016.
- 4) You testified that you were unsure of what your household income was for the months of September 2016 through December 2016. You further testified that your spouse was the sole source of income during the month of September 2016. You also testified that, during the months of October 2016 through December 2016, you were both self-employed. You submitted to NYSOH each of your profit and loss statements for those months.
- 5) You further testified that your spouse held various jobs during the months of September 2016 through December 2016, and you were unaware of what his income was during those months. The record was held open until

February 5, 2017 for you to submit proof of your spouse's employment income for the months of September 2016 through December 2016. On January 30, 2017, you submitted documentation for the months of November 2016 and December 2016 only and the record is now closed.

- 6) The documentation you submitted reflects that your household income for the months of November 2016 is \$2,623.98 and your household income in December 2016 is \$3,968.11 (see Documents [REDACTED], [REDACTED], [REDACTED], [REDACTED], and Appellant's Exhibit A).
- 7) Your application states that you will not be taking any deductions on your 2016 tax return.
- 8) According to your account and your testimony, you live in [REDACTED] 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).

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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 \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 300 % but less than 400 % of the 2015 FPL, the expected contribution in 2016 is 9.66 % 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 \$20,160.00 for a three-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).

People who receive or are eligible for Medicaid are not eligible for APTC since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan for 12 months, with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid Social Security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

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 that you were eligible to share with your spouse in an APTC of up to \$261.00 per month.

The application that was submitted on September 21, 2016 listed an annual household income of \$64,999.00 and the eligibility determination relied upon that information.

You are in a three-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as married filing jointly and will claim one dependent on that tax return.

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).

You reside in ██████ County, where the second lowest cost silver plan available for a couple through NYSOH costs \$783.96 per month.

An annual income of \$64,999.00 is 323.54 % of the 2015 FPL for a three-person household. At 323.54 % of the FPL, the expected contribution to the cost of the health insurance premium is 9.66% of income, or \$523.24 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 (\$783.96 per month) minus your expected contribution (\$523.24 per month), which equals \$260.72 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible to share in up to \$261.00 per month in APTC.

The second issue is whether you were properly found ineligible 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 \$64,999.00 is 323.54% of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

The third issue is whether NYSOH properly determined that 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 \$20,160 for a three-person household. Since \$64,999.00 is 322.41% of the 2016 FPL, NYSOH properly found you 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.

You testified that your spouse was the sole source of income during the month of September 2016 and that in October 2016, you began to earn self-employment income. You submitted each of your profit and loss statements for the months you and your spouse received self-employment income; that is, from September 2016 through December 2016, but did not submit your spouse's proof of other employment income for any of those months.

The record was held open until February 5, 2017 for you to submit proof of your spouse's employment income for the months of September 2016 through December 2016. On January 30, 2017, you submitted said documentation for the months of November 2016 and December 2016 only and therefore, your

household income during the months of September 2016 and October 2016 cannot be determined or even considered.

The documentation you did submit, reflects that your household income for the months of November 2016 is \$2,623.98 and your household income in December 2016 is \$3,968.11.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the 2016 FPL, which is \$2,319.00 per month for a three-person household. Since the documentation you provided shows that your household income was \$2,693.98 in November 2016 and \$3,968.11 in December 2016, you do not qualify for Medicaid on the basis of monthly income in either of those months.

Since the September 22, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible to share with your spouse in up to \$261.00 per month in APTC, ineligible for CSR, and ineligible for Medicaid, it is correct and must be 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 2016, you can check the Federal Marketplace website (www.healthcare.gov) for direction.

Decision

The September 22, 2016 eligibility determination notice is AFFIRMED.

This Decision does not affect any subsequent eligibility determinations made by NYSOH.

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

You were correctly determined to be eligible to share with your spouse in up to \$261.00 per month in APTC in 2016.

You were correctly determined to be ineligible for CSR in 2016.

You were correctly determined to be ineligible for Medicaid in 2016.

This Decisions does not change your current eligibility.

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).

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 September 22, 2016 eligibility determination notice is **AFFIRMED**.

This Decision does not affect any subsequent eligibility determinations made by NYSOH.

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You were correctly determined to be ineligible for CSR in 2016.

You were correctly determined to be ineligible for Medicaid in 2016.

This Decisions does not change your current eligibility.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

