



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

Notice of Decision

Decision Date: March 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012317

[REDACTED]

Dear [REDACTED],

On January 24, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's October 8, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012317



Issues

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

Did NY State of Health properly determine your household's income for the purpose of determining your and your spouse's eligibility for financial assistance with health insurance?

Did NY State of Health properly determine that you and your spouse were eligible to receive up to \$501.00 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 ineligible for Medicaid?

Procedural History

On August 30, 2016, NY State of Health (NYSOH) received your application for health insurance.

On August 31, 2016, NYSOH issued a notice stating that you and your spouse may be eligible for health insurance through NYSOH but more information was needed to make a determination. This same notice requested that you submit income documentation for your household by September 14, 2016.

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On August 30, 2016, September 10, 2016, and September 20, 2016 income documentation was uploaded to your NYSOH account.

On September 21, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application and that additional income documentation was needed for your household by October 14, 2016.

On September 29, 2016, NYSOH received your updated application for health insurance.

On September 30, 2016, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources and that more information was needed to confirm the information in your application. This notice also requested that you submit income documentation for your household by October 14, 2016.

On September 29, 2016 and September 30, 2016 income documentation was uploaded to your account.

On September 30, 2016, NYSOH updated the income in your application based on the income documentation you supplied and submitted this application on your and your spouse's behalf. That day, a preliminary eligibility determination was prepared with regard to that application stating that you and your spouse were eligible to enroll in a qualified health plan through NYSOH and to receive tax credits of up to \$501.00 per month to help pay the cost of your insurance, and that you and your spouse were eligible to get help paying for your out of pocket costs if you selected a silver level health plan, effective November 1, 2016.

Also on September 30, 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 October 8, 2016, NYSOH issued an eligibility determination notice based on the information contained in the September 30, 2016 application, stating that you and your spouse were eligible to receive up to \$501.00 per month in advance payments of the premium tax credit (APTC) as well as cost-sharing reductions if you selected a silver level plan, effective November 1, 2016. That determination stated that you and your spouse were not eligible for Medicaid because your income was over the allowable income limit for that program.

On October 13, 2016, NYSOH issued an eligibility determination stating that you and your spouse were eligible for Medicaid for a limited time, as you and your spouse had been granted Aid to Continue until a decision on your appeal could be issued, effective October 1, 2016.

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On January 24, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open until February 28, 2017 to allow you the opportunity to submit your 2016 1099s and income documentation for August 2016. On January 25, 2017 and February 20, 2017 you uploaded your interest statements for August 2016 and your 2016 1099s to your NYSOH account. The interest statements were illegible and the record was reopened to allow you time to resubmit the August 2016 interest statements. On March 7, 2017 you uploaded the August 2016 interest statements to your NYSOH account. These documents were collectively marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

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 yourself and your spouse.
- 3) The application that was submitted on your behalf on September 30, 2016 listed annual household income of \$37,221.00. You testified that this amount was incorrect.
- 4) You testified that the only source of your and your spouse's income for 2016 was interest and dividends.
- 5) On September 10, 2016 you uploaded your 2015 tax return to your NYSOH account. This indicates that your 2015 income consisted of \$30,211.00 in taxable interest and \$7,010.00 in ordinary dividends, for a total income of \$37,221.00 and an adjusted gross income of \$37,221.00.
- 6) Your 2015 tax return indicates that \$21,671.83 of the taxable interest consisted of a US Treasury Obligation Original Issue Discount. You testified that you would like this amount to be excluded from your household income for purposes of determining your and your spouse's eligibility for financial assistance with health insurance. You further testified that this investment will not mature until 2019, and you do not receive the benefit of the interest on a yearly basis.
- 7) You testified that your income varies from month to month. This is because some of the interest and dividends you and your spouse receive are paid monthly, and some are paid yearly.

- 8) You testified that your household income for 2016 will be similar to your household income for 2015.
- 9) You testified that your 2016 1099s were the most accurate representation of your household income for 2016.
- 10) On February 20, 2017 you uploaded your 2016 1099s to your NYSOH account. The first is for [REDACTED] for dividends of \$178.56; the second is for [REDACTED] for interest of \$83.84; the third is for [REDACTED] for interest of \$7.64; the fourth is for [REDACTED] for interest of \$0.31; the fifth is for [REDACTED] for interest of \$17.53; the sixth is for [REDACTED] for dividends of \$312.84; the seventh is for [REDACTED] for dividends of \$5,360.00; the eighth is for [REDACTED] for interest of \$2,033.73; the ninth is [REDACTED] for dividends of \$1,064.84; the tenth is for [REDACTED] for interest of \$3,470.34; the eleventh is for [REDACTED] for dividends of \$234.95; the twelfth is for [REDACTED] for dividends of \$711.51; the thirteenth is for [REDACTED] for interest of \$3,689.92; the fourteenth is for [REDACTED] for interest of \$84.64; the fifteenth is for [REDACTED] for interest of \$36.84; and the sixteenth is for [REDACTED] for interest of \$0.18 and original issue discount on [REDACTED] obligations of \$23,094.80.
- 11) On January 25, 2017 you uploaded seven interest statements for income you received in August 2016 to your NYSOH account. These were illegible and uploaded again on March 7, 2017. The first is for interest paid by [REDACTED] on August 19, 2016 in the amount of \$2.07; the second is for interest paid by [REDACTED] on August 19, 2016 in the amount of \$0.02; the third is for interest paid by [REDACTED] on August 19, 2016 in the amount of \$0.57; the fourth is for interest paid by [REDACTED] on August 27, 2016 in the amount of \$294.50; the fifth is for interest paid by [REDACTED] on August 31, 2016 in the amount of \$152.76; the sixth is for interest paid by [REDACTED] on August 31, 2016 in the amount of \$7.16; the seventh is for interest paid by [REDACTED] Bank on August 31, 2016 in the amount of \$313.11; for a monthly total income for August 2016 of \$770.19.
- 12) Your application states, and you testified, that you will not be taking any deductions on your 2016 tax return.
- 13) Your application states, and you testified, that 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

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)).

A debt instrument that bears no interest or bears interest at a lower than current market rate will usually be issued at less than its face amount. This discount is considered to be additional interest income, and is taxable (IRS Rev. Proc. 2015-550). Original issue discount is a form of interest, and is included in income as it accrues over the term of the debt instrument, whether or not any payment is received (IRS Rev. Proc. 2015-550).

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

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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).

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 \$16,020.00 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 your household's income for the purpose of determining your and your spouse's eligibility for financial assistance with health insurance.

Household income for the purpose 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.

You testified that you will file your 2016 tax return as married filing jointly. You testified that you will claim no dependents on that tax return. Therefore, you are in a two-person household.

On September 10, 2016 you uploaded your 2015 tax return which indicated a total income of \$37,221.00 and an adjusted gross income of \$37,221.00. On September 30, 2016, NYSOH determined your annual household income to be \$37,221.00, based on the information in your 2015 tax return.

During the hearing, you argued that the \$21,671.83 in original issue discount on US Treasury Obligations should not have been included in your modified adjusted gross income for purposes of determining your and your spouse's eligibility for financial assistance with health insurance, as you do not receive this interest and the debt instrument associated with this interest will not mature until 2019.

However, the original issue discount is a form of interest, and is included in income as it accrues over the term of the debt instrument. Therefore, NYSOH properly included the \$21,671.83 when determining your household Modified Adjusted Gross Income, and properly calculated your household Modified Adjusted Gross Income to be \$37,221.00.

The second issue is whether NYSOH properly determined that you and your spouse were eligible for an APTC of up to \$501.00 per month.

You reside in ██████████ County, where the second lowest cost silver plan available for a couple through NYSOH costs \$736.52 per month.

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An annual income of \$37,221.00 is 233.65% of the 2015 FPL for a two-person household. At 233.65% of the FPL, the expected contribution to the cost of the health insurance premium is 7.60% of income, or \$235.77 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 couple in your county (\$736.52 per month) minus your expected contribution (\$235.77 per month), which equals \$500.75 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your spouse to be eligible for up to \$501.00 per month in APTC.

The third 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 \$37,221.00 is 233.65% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The fourth 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 \$37,221.00 is 232.34% 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.

Since the October 8, 2016 eligibility determination properly stated that, based on the documentation you provided, you and your spouse were eligible for up to \$501.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is **AFFIRMED**.

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 submitted interest statements that show in August 2016 you received \$770.19.

Since the record now contains a more accurate representation of what your monthly household income is, your case is **RETURNED** to NYSOH to redetermine your and your spouse's eligibility based on a household of two

people residing in ██████ County with a monthly income for August 2016 of \$770.16.

Decision

The October 8, 2016 eligibility determination notice is AFFIRMED.

The case is RETURNED to NYSOH to redetermine your and your spouse's eligibility based on a household of two people residing in ██████ County with a monthly income for August 2016 of \$770.16.

Effective Date of this Decision: March 14, 2017

How this Decision Affects Your Eligibility

This is not a final determination on your and your spouse's eligibility.

Your case is being sent back to NYSOH to redetermine your and your spouse's eligibility based on the information you provided during your hearing.

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):

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Summary

The October 8, 2016 eligibility determination notice is AFFIRMED.

The case is RETURNED to NYSOH to redetermine your and your spouse's eligibility based on a household of two people residing in ██████████ County with a monthly income for August 2016 of \$770.16.

This is not a final determination on your and your spouse's eligibility.

Your case is being sent back to NYSOH to redetermine your and your spouse's eligibility based on the information you provided during your hearing.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

