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

Notice of Decision

Decision Date: February 7, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000012623

[redacted]

Dear [redacted],

On February 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 17, 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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NY State of Health Account ID: [redacted]
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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 were eligible to receive up to $169.00 per month in advance payments of the premium tax credit, effective December 1, 2016?
>
> Did NY State of Health properly determine that you were eligible for cost-sharing reductions?
>
> Did NY State of Health properly determine that you were not eligible for Medicaid?

Procedural History

On October 16, 2016, NY State of Health (NYSOH) received your completed application for health insurance.

On October 17, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to $169.00 per month in advance payments of the premium tax credit (APTC) as well as cost-sharing reductions if you selected a silver level qualified health plan, effective December 1, 2016. That notice further stated that you were not eligible for Medicaid because your income was over the allowable income limit for that program.

On October 18, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as it did not find you eligible for Medicaid.

On January 25, 2017, NYSOH redetermined your eligibility for financial assistance with health insurance.

On January 26, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid, effective January 1, 2017.

On February 2, 2017, 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) You testified that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.

2) You are seeking insurance for yourself.

3) The application that was submitted on October 16, 2016 listed annual household income of $29,336.00, consisting of wages you earn from your employment. You testified that you believe you earned around $33,000.00 in 2016, however you have subsequently had a change in circumstances.

4) You testified that you were terminated from your job and you have not worked since November 4, 2016. You testified that your last paycheck was dated November 7, 2016. You testified that you received no severance pay.

5) You testified that you filed for unemployment insurance benefits on December 5, 2016 and received your first check dated December 12, 2016. You testified that you have continued to receive $430.00 per week in unemployment insurance benefits. You testified that you had no other income in December 2016.

6) On January 18, 2017, information from the Department of Labor was uploaded to your NYSOH account confirming that you receive $430.00 per week in unemployment insurance benefits, and that, as of January 18, 2017, you were eligible for an additional 88 days of unemployment insurance benefits.

7) You testified that you will not be taking any deductions on your 2016 tax return.

8) You testified that you are seeking Medicaid as of December 1, 2016.

9) You testified that you lived in [redacted] County throughout 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 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).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to $169.00 per month, effective December 1, 2016.

The application that was submitted on October 16, 2016 listed an annual household income of $29,336.00 and the eligibility determination relied upon that information.

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 $368.26 per month.

An annual income of $29,336.00 is 249.24% of the 2015 FPL for a one-person household. At 249.49% of the FPL, the expected contribution to the cost of the health insurance premium is 8.15% of income, or $199.32 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 ($368.26 per month) minus your expected contribution ($199.32 per month), which equals $168.94 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to $169.00 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 $29,336.00 is 249.24% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions.

The third issue is whether NYSOH properly determined that you were ineligible for Medicaid, effective December 1, 2016.

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 $29,336.00 is 246.94% 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.

Since the October 17, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to $169.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, on January 25, 2017, NYSOH redetermined your eligibility for financial assistance. In the January 26, 2017 eligibility determination, NYSOH found you eligible for Medicaid, effective January 1, 2017.

During the hearing, you testified that you are seeking Medicaid as of December 1, 2016.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

Since the record now contains a more accurate representation of what your income was for the month of December 2016, your case is RETURNED to NYSOH to consider your request for retroactive coverage for December 1, 2016 through December 31, 2016 based on a household size of one person and household income of $1,290.00.

Decision

The October 17, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to consider your request for retroactive coverage for December 1, 2016 through December 31, 2016 based on a household size of one person and household income of $1,290.00 for the month of December 2016.

Effective Date of this Decision: February 7, 2017

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility. Your case is being sent back to NYSOH to redetermine your eligibility for December 2016 based on the evidence you presented at the hearing.

This decision has no effect on any subsequent eligibility determination.

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

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).

The October 17, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to consider your request for retroactive coverage for December 1, 2016 through December 31, 2016 based on a household size of one person and household income of $1,290.00 for the month of December 2016.

This is not a final determination of your eligibility. Your case is being sent back to NYSOH to redetermine your eligibility for December 2016 based on the evidence you presented at the hearing.

This decision has no effect on any subsequent eligibility determination.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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