



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

## Notice of Decision

Decision Date: February 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012677

[REDACTED]

Dear [REDACTED]

On February 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 20, 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).

This page intentionally left blank.



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

## Decision

Decision Date: February 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012677

[REDACTED]

## 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 up to \$312.00 per month in advance payments of the premium tax credit, effective December 1, 2016?

Did NY State of Health properly determine that you and your spouse were not eligible for cost-sharing reductions?

Did NY State of Health properly determine that you, your spouse, and your child were not eligible for Medicaid effective December 1, 2016?

Did NY State of Health properly determine that your child was eligible for Child Health Plus for a cost of \$30.00 per month effective December 1, 2016?

## Procedural History

On December 14, 2015, NY State of Health (NYSOH) received your household's completed application for health insurance.

On December 15, 2015, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to receive up to \$290.00 per month in advance premium tax credits. The notice further stated your child was eligible to enroll in Child Health Plus for a cost of \$30.00 per month effective January 1, 2016. The determination stated this was because you stated your household income was \$57,700.00.

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).

On December 21, 2015, NYSOH received your updated application for financial assistance. A preliminary eligibility determination was made finding you and your household eligible for Medicaid effective January 1, 2016. The determination was based on your attested household income of \$27,368.66.

On December 24, 2015, an enrollment confirmation notice was issued confirming your household's enrollment in a Medicaid Managed Care plan effective February 1, 2016.

On October 10, 2016, a renewal notice was issued stating it was time to renew your household's health coverage. The notice stated NYSOH did not have enough information from state and federal data sources to determine if you can get help paying for insurance or what coverage you can have next year. The notice stated you needed to update the information in your account by November 15, 2016. If you missed this deadline the financial assistance you were receiving could end.

On October 19, 2016, NYSOH received your household's updated application for financial assistance.

On October 20, 2016, an eligibility determination notice was issued stating you and your spouse were eligible to receive up to \$312.00 per month in advance premium tax credits effective December 1, 2016. The notice further stated your child was eligible to enroll in Child Health Plus for a cost of \$30.00 per month effective December 1, 2016. The determination stated your household income was \$56,224.00.

On October 20, 2016, a disenrollment notice was issued stating your household's Medicaid Managed Care plan would end effective November 30, 2016.

On October 20, 2016, an enrollment confirmation notice was issued confirming your child's enrollment in a Child Health Plus plan for a cost of \$30.00 per month starting December 1, 2016.

Also on October 20, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination notice insofar as your household was determined no longer eligible for Medicaid effective December 1, 2016.

On November 1, 2016, NYSOH issued a notice stating Aid to Continue was granted until a decision is made on your appeal. Your household was enrolled in a Medicaid Managed Care plan effective December 1, 2016.

On February 7, 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 married filing jointly. You will claim one dependent on that tax return.
- 2) You are seeking insurance for your household.
- 3) The application that was submitted on October 19, 2016 listed annual household income of \$57,700.00. You testified that this amount was correct.
- 4) NYSOH ran your household's eligibility based on an annual household income of \$56,224.00.
- 5) At the time of your October 19, 2016 application, your child was two years old.
- 6) Your application states that you will be taking deductions on your 2016 tax return. This includes \$26,617.34 for Tuition and Fees, \$2,000.00 for school books and supplies, and \$1,714.00 in Student Loan interest. You testified this was correct.
- 7) You testified in prior years your deductions for your tuition and school costs were allowed to be deducted from your household income.
- 8) Your application states that you live in Queens 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

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).

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 2015 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 250% but less than 300% of the 2016 FPL, the expected contribution is between 8.18% and 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,

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).

(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).

### Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

### Child Health Plus

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

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).

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child’s family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY PHL § 2510(9)(d)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL, but no more than \$90.00 per month per family (NY PHL § 2510(9)(d)(iv)).

In an analysis of Child Health Plus 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 was \$20,160.00 for a three-person household (81 Fed. Reg. 4036).

### 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)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; see also 26 USC § 62 (17)).

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).



Subject to some limitations, tuition and fees for a dependent's higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer's yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly. This deduction was renewed by Congress in December 2014 and made retroactive to the 2014 tax year and extended to December 31, 2017 (26 USC § 222(e); see IRS Publication 970).

## **Legal Analysis**

The first issue is whether NYSOH properly determined that you and your spouse were eligible for an APTC of up to \$312.00 per month.

On October 19, 2016 NYSOH ran your household's eligibility based on an annual household income of \$56,224.00.

You are in a three-person household. You expect to file your 2016 income taxes as married filing jointly and will claim one dependent on that tax return.

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

An annual income of \$56,224.00 is 279.86% of the 2015 Federal Poverty Level (FPL) for a three-person household. At 279.86% of the FPL, the expected contribution to the cost of the health insurance premium is 9.06% of income, or \$424.49 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 (\$424.49 per month), which equals \$312.03 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$312.00 per month in APTC.

The second issue is whether you and your spouse were properly found ineligible 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 \$56,224.00 is 279.86% of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

The third issue is whether NYSOH properly determined that your household was ineligible for Medicaid effective December 1, 2016.

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).

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 \$20,160.00 for a three-person household. Since \$56,224.00 is 278.88% 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.

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size. The record supports at the time of your application your child was two years old.

Since a household income as described above equals 278.88% of the applicable FPL for your child's family size, he was properly determined ineligible for Medicaid effective December 1, 2016.

The fourth issue is whether NYSOH properly determined that your child was eligible for Child Health Plus for a cost of \$30.00 per month effective December 1, 2016.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. Households with an income between 251% and 300% of the FPL are responsible for a \$30.00 per month Child Health Plus premium payment. On the date of your application, the relevant FPL was \$20,160.00 for a three-person household. Since \$56,224.00 is 278.88% of the 2016 FPL, NYSOH properly found your child to be eligible for Child Health Plus with a \$30.00 per month premium payment.

However, the application that was submitted on October 19, 2016 listed annual household income of \$57,700.00 as well as deductions that NYSOH may not have taken into consideration when determining your household income in the October 20, 2016 eligibility determination. You testified you will be taking deductions of student loan interest and tuition and fees in the amount of \$26,617.34 for Tuition and Fees, \$2,000.00 for school books and supplies, and \$1,714.00 in Student Loan interest.

NYSOH bases its determinations as described above as subject to Modified Adjusted Gross Income rules.

Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed

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).

\$160,000. Additionally, Subject to some limitations, tuition and fees for a dependent's higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer's yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly.

Since you claim up to \$1,714.00 in student loan interest, and are permitted to claim up to \$4,000.00 for higher education your total deductions for 2016 would be \$5,714.00. This would mean your annual household income would be \$51,986.00.

Therefore, the October 19, 2016 eligibility determination must be **RESCINDED** since NYSOH improperly calculated your income to be \$56,224.00.

Your case is therefore **RETURNED** to NYSOH to redetermine your household's eligibility for financial assistance using a three-person household with an annual household income of \$51,986.00 residing in Queens County, effective December 1, 2016.

## **Decision**

The October 19, 2016 eligibility determination is **RESCINDED**.

Your case is therefore **RETURNED** to NYSOH to redetermine your household's eligibility for financial assistance using a three-person household with an annual household income of \$51,986.00 residing in Queens County, effective December 1, 2016.

**Effective Date of this Decision:** February 21, 2017

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

This decision is not a final determination of your household's eligibility for financial assistance.

Your case is returned to determine your household's eligibility based upon the criteria outlined above.

## **If You Disagree with this Decision (Appeal Rights)**

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).

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 October 19, 2016 eligibility determination is RESCINDED.

Your case is therefore RETURNED to NYSOH to redetermine your household's eligibility for financial assistance using a three-person household with an annual household income of \$51,986.00 residing in Queens County, effective December 1, 2016.

This decision is not a final determination of your household's eligibility for financial assistance.

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).

Your case is RETURNED to determine your household's eligibility based upon the criteria outlined above.

### **Legal Authority**

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

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

