



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: AP000000012773

[REDACTED]

Dear [REDACTED],

On January 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 7, 2016 eligibility determination and cancellation notices.

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 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: February 7, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012773

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine your household income as stated in the September 7, 2016 eligibility determination notice?

Procedural History

On August 18, 2016, NY State of Health (NYSOH) received your application for financial assistance.

On August 19, 2016, NYSOH issued an eligibility determination based on the August 18, 2016 application stating that you were eligible to enroll in the Essential Plan for a limited time effective October 1, 2016. You were asked to provide income documentation to confirm your income by November 16, 2016. The determination was based on your attested household income of \$18,200.00.

Also on August 19, 2016, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan at \$20.00 per month effective October 1, 2016.

On August 31, 2016, NYSOH received your income documentation in the form of paystubs from your employer. See Document [REDACTED]

On September 6, 2016, NYSOH updated your income based on the paystubs and redetermined your eligibility.

On September 7, 2016, NYSOH issued an eligibility determination notice based on the updated application on September 6, 2016, stating that you were newly eligible to receive advance premium tax credits of up to \$258.00 per month as well as cost-sharing reductions effective October 1, 2016. The determination also stated that you were not eligible for the Essential Plan because your income was over the allowable income limit for that program. The determination was based on your household income of \$23,673.00.

Also on September 7, 2016, a cancellation notice was issued terminating your enrollment in the Essential Plan effective October 1, 2016.

On October 24, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for the Essential Plan and you were no longer enrolled in your Essential Plan.

On January 31, 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 August 18, 2016, which requested financial assistance, listed annual household income of \$18,200.00 consisting of income you earn from your employment. You testified that this amount was correct.
- 4) You provided income documentation on August 31, 2016, showing paystubs from your employer. The paystubs show your regular hourly rate of pay as \$12.00 an hour. The paystubs also show hours for a four-week period from July 15, 2016 to August 11, 2016 for a total amount of hours of 151.75. See Document [REDACTED]
- 5) You are paid bi-weekly.
- 6) Your paystubs show that you received a gross amount of \$864.00 on August 5, 2016, and \$957.00 on August 19, 2016. See Document [REDACTED]

- 7) The August 19, 2016 paystub lists a year to date gross income of \$14,628.00
- 8) Your application states that you will not be taking any deductions on your 2016 tax return. You testified this was correct.
- 9) The application submitted on September 6, 2016 by a NYSOH representative updated your annual household income to \$23,673.00.
- 10) Your application states 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

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 200% 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).

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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).

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), NY Social Services 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 \$11,770.00 for a one-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

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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 issue under review is whether NYSOH properly determined your annual household income as stated in the September 7, 2016 eligibility determination notice.

On August 18, 2016, NYSOH received your initial application for financial assistance. That determination was based on your household income of \$18,200.00. As a result of this application you were found conditionally eligible to enroll in the Essential Plan for a limited time effective October 1, 2016. You were asked to provide income documentation to confirm your income by November 16, 2016.

After providing income documentation on August 31, 2016, your application was updated by a NYSOH representative and your eligibility was redetermined on September 6, 2016.

The application submitted on September 6, 2016, by a NYSOH representative listed an annual household income of \$23,673.00 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.

Advance payments of the premium tax credit are generally available to a person who is eligible to enroll in a qualified health plan and expects to have a household income between 200% and 400% of the applicable FPL

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.

An annual income of \$23,673.00 is 201.13% of the 2015 FPL for a one-person household. Therefore, based on the income that NYSOH calculated, you were found eligible for APTC and no longer eligible for the Essential Plan.

Accordingly, you were terminated from your Essential Plan, effective October 1, 2016.

However, the updated application that was submitted on September 6, 2016, did not properly consider the income documentation you had provided on August 31, 2016.

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The paystubs you provided show that you received a gross amount of \$864.00 on August 5, 2016, and \$957.00 on August 19, 2016. Since you are paid biweekly, your next pay check would have been on September 2, 2016.

You testified that the hours you work in a month vary. Based on the paystubs you provided, your average biweekly check would be \$910.50 (\$864.00 plus \$957.00, divided by two). Were this rate to remain the same for the remaining nine biweekly paystubs you would receive in 2016, you would expect to earn an additional \$8,194.50 in 2016. The paystub dated August 19, 2016 listed a year to date income of \$14,628.00. Therefore, your household income for the 2016 should have been calculated to be \$22,822.50.

Therefore, the September 7, 2016 eligibility determination notice is **RESCINDED** because it improperly determined your annual household income to be \$23,673.00.

In addition, the September 7, 2016 cancellation notice is **RESCINDED** since it was based on an incorrect eligibility determination.

Your case is **RETURNED** to NYSOH to redetermine your eligibility as of September 7, 2016 based on a household of one person, with a household income of \$22,822.50, residing in ██████ County. NYSOH is further directed to assist you in reenrolling into a plan with an appropriate effective date based on the redetermination as of September 7, 2016.

Decision

The September 7, 2016, eligibility determination is **RESCINDED**.

The September 7, 2016 cancellation notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to redetermine your eligibility as of September 7, 2016 based on a household of one person, with a household income of \$22,822.50, residing in ██████ County. NYSOH is further directed to assist you in reenrolling into a plan with an appropriate effective date based on the redetermination as of September 7, 2016.

Effective Date of this Decision: February 7, 2017

How this Decision Affects Your Eligibility

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NYSOH incorrectly determined your household income in the September 7, 2016 notice and incorrectly terminated your Essential Plan as a result.

Your case is being sent back to NYSOH to redetermine your eligibility based on the corrected income of \$22,822.50 as of September 7, 2016 and will assist you in enrolling into a plan as of that date once your eligibility is correctly determined.

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 after 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

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The September 7, 2016, eligibility determination is RESCINDED.

The September 7, 2016 cancellation notice is RESCINDED.

NYSOH incorrectly determined your household income in the September 7, 2016 notice and incorrectly terminated your Essential Plan as a result.

Your case is RETURNED to NYSOH to redetermine your eligibility as of September 7, 2016 based on a household of one person, with a household income of \$22,822.50, residing in ██████████ County. NYSOH is further directed to assist you in reenrolling into a plan with an appropriate effective date based on the redetermination as of September 7, 2016.

Your case is being sent back to NYSOH to redetermine your eligibility based on the corrected income of \$22,822.50 as of September 7, 2016 and will assist you in enrolling into a plan as of that date once your eligibility is correctly determined.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

