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

Notice of Decision

Decision Date: January 25, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000012907

[redacted],

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 29, 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.

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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: January 25, 2017

NY State of Health Account ID: ██████████
Appeal Identification Number: AP000000012907

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 were eligible to receive up to $95.00 per month in advance payments of the premium tax credit (APTC), effective December 1, 2016?
>
> Did NY State of Health properly determine that you were not eligible for cost-sharing reductions (CSR)?
>
> Did NYSOH properly determine that you were not eligible for the Essential Plan?
>
> Did NY State of Health properly determine that you were not eligible for Medicaid?

Procedural History

On October 28, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were temporarily eligible to receive up to $95.00 per month in APTC, effective December 1, 2016.

Also on October 28, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not found eligible for Medicaid or the Essential Plan.

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On October 29, 2016, NYSOH issued an eligibility determination notice based on the information contained in the October 28, 2016 application, stating that you were eligible to receive up to $95.00 per month in APTC for a limited time (pending proof of your income), effective December 1, 2016. The notice also stated that you were not eligible for CSR, Medicaid, or the Essential Plan because your household income of $40,000.00 was above the respective allowable income limits for these programs.

On January 20, 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 head of household with qualifying individual. You will claim one dependent on that tax return.

2) You are appealing with regard to your eligibility only, and no longer appealing your son's eligibility.

3) The application that was submitted on October 28, 2016 listed annual household income of $40,000.00, consisting of income you earn from employment You testified that this amount was approximately correct.

4) You testified that you get paid biweekly. You testified that your gross pay biweekly is between $1,400.00 and $1,500.00.

5) On December 12, 2016, you uploaded a paystub for a paycheck dated December 9, 2016. The stub showed gross earnings of $1,354.83 for that pay period. The stub also showed gross year-to-date earnings of $45,841.08 Lastly, the paystub showed an hourly rate of $19.23 (Document [redacted] .

6) You testified that you received one other paystub in December 2016, and that you had not reason to believe that the amount would have been significantly different than what you were paid on December 9, 2016.

7) Your application states that you will not be taking any deductions on your 2016 tax return, and you testified that this is correct.

8) Your application states that you live in Monroe County.

9) You testified that you are very unhappy with the service you've been provided with by NYSOH. You further testified that you cannot afford to pay nearly $300.00 a month for health insurance, as you are a single mother and have many expenses.

10) You testified that you were previously enrolled in the Essential Plan paying $20.00 per month, and that you would like to be eligible for that coverage again.

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

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

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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 250% but less than 300% of the 2015 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

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 $15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

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 under review is whether NYSOH properly determined that you were eligible for an APTC of up to $95.00 per month.

The application that was submitted on October 28, 2016 listed an annual household income of $40,000.00, and the eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2016 income taxes as head of household with qualifying individual and will claim one dependent on that tax return.

You reside in Monroe County, where the second lowest cost silver plan available for an individual subscriber through NYSOH costs $368.59 per month.

An annual income of $40,000.00 is 251.10% of the 2015 FPL for a two-person household. At 251.10% of the FPL, the expected contribution to the cost of the health insurance premium is 8.21% of income, or $273.67 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 subscriber in your county ($368.59 per month) minus your expected contribution

($266.67 per month), which equals $94.92 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to $95.00 per month in APTC.

The second issue under review 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 $40,000.00 is 251.10% of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

The third issue under review is whether NYSOH properly determined that you were not eligible for the Essential Plan.

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. On the date of your application, the relevant FPL was $15,930.00 for a two-person household. Since an annual household income of $40,000.00 is 251.10% of the 2015 FPL, NYSOH properly found you to be ineligible for the Essential Plan.

The fourth issue under review 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 $16,020.00 for a two-person household. Since $40,000.00 is 249.69% 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 submitted one paystub from December 9, 2016 showing a gross income of $1,354.83 for a biweekly period. You testified that you believe your other December paystub for December 23, 2016 was for roughly the same amount. Therefore, your monthly income for December was approximately $2,709.66.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is $1,842.30 per month. Since, according to your testimony, you earned approximately $2,709.66 in

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December 2016, you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the October 29, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to $95.00 per month in APTC, ineligible for CSR, ineligible for the Essential Plan, and ineligible for Medicaid, it was correct and is AFFIRMED.

PLEASE NOTE: This decision relates only to your eligibility for financial assistance for 2016, and has no bearing on your eligibility for financial assistance for 2017.

Decision

The October 29, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 25, 2017

How this Decision Affects Your Eligibility

You were eligible for up to $95.00 per month in APTC, effective December 1, 2016.

You were ineligible for cost-sharing reductions as of your October 28, 2016 application.

You were ineligible for the Essential Plan, as of your October 28, 2016 application.

You were ineligible for Medicaid as of your October 28, 2016 application.

This decision has no effect on your eligibility for financial assistance for 2017.

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 October 29, 2016 eligibility determination notice is AFFIRMED.

You were eligible for up to $95.00 per month in APTC, effective December 1, 2016.

You were ineligible for cost-sharing reductions as of your October 28, 2016 application.

You were ineligible for the Essential Plan, as of your October 28, 2016 application.

You were ineligible for Medicaid as of your October 28, 2016 application.

This decision has no effect on your eligibility for financial assistance for 2017.

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