



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

## Notice of Decision

Decision Date: March 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012994

[REDACTED]

Dear [REDACTED],

On February 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 2, 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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## Decision

Decision Date: March 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012994



## 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 not eligible for advance payments of the premium tax credit or cost-sharing reductions, effective December 1, 2016?

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

## Procedural History

On October 31, 2016, and November 1, 2016, NY State of Health (NYSOH) received numerous applications for health insurance. Each application indicated that you were married, however your spouse was not included in the household information in any of the applications.

On November 1, 2016, a preliminary eligibility determination was prepared with regard to the last application that day, stating that you were eligible to purchase a qualified health plan at full cost, effective December 1, 2016.

Also on November 1, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your eligibility for financial assistance.

On November 2, 2016, NYSOH issued an eligibility determination notice based on the information contained in the November 1, 2016 application, stating you were eligible to purchase a qualified health plan at full cost beginning December

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1, 2016. It stated that you do not qualify for an advance premium tax credit because your application states that the primary tax filers in your household are married but not filing taxes jointly. It also stated that you do not qualify for cost-sharing reductions because you are not eligible for advance premium tax credits. The notice also stated you were ineligible for Medicaid, or the Essential Plan because you did not meet the eligibility standards for those programs.

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 kept open 15 days for you to provide documentation showing the last day of your employer sponsored insurance and Unemployment Insurance Benefits Statement. The documentation was received by NYSOH in your account as uploaded documentation on February 13, 2017 and incorporated into the record as (Appellant's Exhibit 1).

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you will be filing your 2016 income tax return with a tax filing status of Head of Household. You will claim two dependents on that income tax return.
- 2) You testified that you are currently married and that you are not legally separated from your spouse, and do not have a final decree of divorce.
- 3) You testified that you still reside with your spouse.
- 4) You are seeking insurance for yourself.
- 5) The application that was submitted on November 1, 2016 listed annual household income of \$43,950.00, consisting of income you earn from your employment. You testified that this amount was not correct.
- 6) You testified, and provided documentation, that your monthly income was received through Unemployment Insurance Benefits which you began to receive in the amount of \$425.00 a week on September 4, 2016. (See Appellant's Exhibit 1, [REDACTED]).
- 7) The record shows you received four payments of \$430.00 in the month of November, 2016. (See Appellant's Exhibit 1, [REDACTED]).
- 8) You provided a letter from your former employer stating your Medical coverage ended effective August 17, 2016, the last date of your

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employment. (See Appellant's Exhibit 1, [REDACTED]).

9) Your application states that you will not be taking any deductions on your 2016 tax return.

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 the Premium Tax Credit

APTC is 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 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)).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
  - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
  - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
  - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

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## 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)), N.Y. Soc. Serv. 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).

## Family Size

“Family size” means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

In the case of a married couple living together, each spouse is included in the Medicaid household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

In general, household income means the aggregate modified adjusted gross income of every person who is included in the taxpayer's family and is required to file a federal tax return (26 CFR § 1.36B-1(e)).

## **Legal Analysis**

The first issue is whether NYSOH properly determined that you are not eligible for APTC and cost-sharing reductions effective December 1, 2016.

In the eligibility determination notice issued on November 2, 2016, NYSOH denied an APTC to you because you indicated that you were married but did not plan to file a joint federal income tax return.

To qualify for APTC, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the information in the record and your testimony at the hearing, you are still married to your spouse and have not obtained a decree of divorce or of separate maintenance. Also, you confirmed that you do not plan to file a joint federal income tax return with your spouse for the 2016 tax year. You further testified you still reside with your spouse.

There is an exception, as noted above, that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for APTC. However, the record does not support a finding that you meet the necessary requirements for that exception because you still reside with your spouse.

Therefore, NYSOH was correct when it found that you were not eligible for APTC due to your tax filing status.

Cost-sharing reductions are available only to those who meet the requirements for APTC. Since you did not qualify for APTC, NYSOH correctly found that you were not eligible for cost-sharing reductions.

The second issue 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.

You testified you will be claiming two dependents on your tax return for 2016 and will be filing your taxes as Head of Household. However, you testified you are still married and residing with your spouse. In the case of a married couple living

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together, each spouse is included in the Medicaid household of the other spouse, regardless of whether they expect to file a joint tax return

Therefore, you are in a four-person household for purposes of your eligibility determination.

On the date of your application, the relevant FPL was \$20,160.00 for a three-person household which is what your determination was based on. Since \$43,950.00 is 218.00% 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 November 2, 2016 eligibility determination properly stated that, based on the information you provided, you were ineligible for APTC and cost-sharing reductions, and ineligible for Medicaid, effective December 1, 2016 it is correct and is AFFIRMED.

However, financial eligibility for Medicaid applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You submitted documentation after your telephone hearing in which you provide evidence of receiving four payments of \$430.00 in the month of November, 2016. (See Appellant's Exhibit 1, [REDACTED]).

However, since you still reside with your spouse, in order to make an appropriate determination on your household's income for November 2016 the record must contain information about her income. As the record stands now, your NYSOH account does not contain any information in regards to your spouse.

Therefore, your case is RETURNED to NYSOH to assist you in updating your application with information about your spouse's income. Once the income information has been updated to reflect your spouse's income for November 2016, NYSOH is directed to redetermine your eligibility for Medicaid for the month of November, 2016 based on a four-person household residing in [REDACTED] County with your monthly household income of \$1,720.00 plus the amount of income for your spouse for the month of November, 2016.

## **Decision**

The November 2, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to assist you in updating your application with information about your spouse's income. Once the income information has been updated to reflect your spouse's income for November 2016, NYSOH is

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directed to redetermine your eligibility for Medicaid for the month of November, 2016 based on a four-person household residing in ██████ County with your monthly household income of \$1,720.00 plus the amount of income for your spouse for the month of November, 2016.

**Effective Date of this Decision:** March 7, 2017

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

You remain ineligible for an APTC because you are married but not filing your 2016 federal income tax return jointly.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

This decision is not a final determination of your eligibility for Medicaid.

### **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):**

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You can contact us in any of the following ways:

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- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The November 2, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to assist you in updating your application with information about your spouse's income. Once the income information has been updated to reflect your spouse's income for November 2016, NYSOH is directed to redetermine your eligibility for Medicaid for the month of November, 2016 based on a four-person household residing in ██████████ County with your monthly household income of \$1,720.00 plus the amount of income for your spouse for the month of November, 2016.

You remain ineligible for an APTC because you are married but not filing your 2016 federal income tax return jointly.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

This decision is not a final determination of your eligibility for Medicaid.

## **Legal Authority**

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

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

