



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

Notice of Decision

Decision Date: March 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013505

[REDACTED]

Dear [REDACTED]

On February 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 19, 2016 and November 19, 2016 eligibility determination 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 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 not eligible to receive advance payments of the premium tax credit, effective December 1, 2016 and January 1, 2017?

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

Did NY State of Health properly determine that you were not eligible for Medicaid?

Procedural History

On October 19, 2016 and November 19, 2016, NYSOH issued eligibility determination notices based on the information contained in your October 18, 2016 and November 18, 2016 applications. Those notices both stated that you were eligible to purchase a qualified health plan (QHP) at full cost, effective December 1, 2016 and January 1, 2017, respectively.

On November 23, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of those eligibility determinations insofar as you were denied financial assistance.

On February 28, 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 and 2017 taxes with a tax filing status of single. You will claim no dependents on those tax returns.
- 2) You are seeking insurance for yourself.
- 3) The applications that were submitted on October 18, 2016 and November 18, 2016 listed annual household income of \$50,000.00, consisting of \$50,000.00 you earn from your employment.
- 4) You testified that you actually earned approximately \$59,000.00 in 2016, but thought that you might take \$2,200.00 in business expense deductions. An annual income of \$59,000.00 less your business expense deduction of \$2,200.00, equals an adjusted gross annual income of \$56,800.00.
- 5) You testified that you expect your income for 2017 to remain the same.
- 6) Your application states that you will not be taking any deductions on your 2016 tax return.
- 7) You testified, that your monthly income for October 2016 was \$2,800.00 and your income for November 2016 was roughly the same or more.
- 8) You testified that you are [REDACTED] and cannot afford the insurance plans without having to work more hours. You would like to be able to work less so you can take care of your health.
- 9) According to your NYSOH account and your testimony, you live in Kings County, New York.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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)).

Business Expenses Deduction

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a trade or business may be deductions from a taxpayers adjusted gross income (26 USC § 62 (a)(1)).

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)).

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 applications, that was the 2015 FPL, which is \$ 11,770.00 for a one-person household in 2016 and \$11,880.00 for a one-person household in 2017 (80 Federal Register 3236, 3237; 81 Fed. Reg. 4036).

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).

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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)), 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 applications, that was the 2016 FPL, which is \$11,880.00 for a one-person household and the 2017 FPL, which is \$12,060.00 for a one-person household (81 Fed. Reg. 4036; 82 FR 8831).

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).

People who receive or are eligible for Medicaid are not eligible for APTC since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan for 12 months, with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid Social Security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage

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under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NYSOH has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were ineligible for APTC as of December 1, 2016 and January 1, 2017.

Notwithstanding the fact that you testified to a modified adjusted gross income of \$56,800.00, the applications that were submitted on October 18, 2016 and November 18, 2016 listed an annual household income of \$50,000.00. The findings of eligibility made by NYSOH relied upon that information.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 and 2017 income taxes as single and will claim no dependents on those tax returns.

APTC is available to a person who has a household income no greater than 400% of the FPL. In an evaluation for eligibility in 2016, an annual income of \$50,000.00 is 424.81% of the 2015 FPL of \$11,770.00 for a one-person household. In an evaluation for eligibility in 2017, an annual income of \$50,000.00 is 420.88% of the 2016 FPL of \$11,880.00 for a one-person household.

Since a household income of \$50,000.00; which you attested to in your October 18, 2016 and November 18, 2016 applications; is 424.81% and 420.88% of the applicable FPLs for 2016 and 2017 for a one-person household, NYSOH correctly found you to be ineligible for APTC, effective December 1, 2016 and January 1, 2017.

The second issue under review is whether you 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 \$50,000.00 is 424.81% and 420.88% of the applicable FPLs for 2016 and 2017, NYSOH correctly found you to be ineligible for cost sharing reductions, effective December 1, 2016 and January 1, 2017, respectively.

The third issue under review is whether NYSOH properly determined that you were ineligible for Medicaid effective December 1, 2016 and January 1, 2017.

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 October 18, 2016 and November 18, 2016 applications, the relevant FPL was \$11,880.00 and \$12,060, respectively, for a one-person household. Since \$50,000.00 is 420.88% of the 2016 FPL and 414.59% of the 2017 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 testified that your income for both October 2016 and November 2016 was \$2,800.00 with a monthly business expense deduction of \$183.33 (\$2,200.00/12 months); for a total of \$2,616.67 for the months of October 2016 and November 2016.

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 \$1,367.00 per month in 2016 and \$1,387.00 in 2017. Since the record supports that you earned \$2,616.67 in both October 2016 and November 2016, you do not qualify for Medicaid on the basis of monthly income as of the date of your applications.

Since the October 19, 2016 and November 19, 2016 eligibility determination notices properly stated that, based on the information you provided, you were ineligible for APTC, ineligible for cost-sharing reductions, and ineligible for Medicaid, they are correct and must be AFFIRMED.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2017, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

Decision

The October 19, 2016 and November 19, 2016 eligibility determination notices are AFFIRMED.

Effective Date of this Decision: March 3, 2017

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How this Decision Affects Your Eligibility

You remain ineligible for APTC.

You are ineligible for cost-sharing reductions.

You are ineligible 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):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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- By fax: 1-855-900-5557

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Summary

The October 19, 2016 and November 19, 2016 eligibility determination notices are AFFIRMED.

You remain ineligible for APTC.

You are ineligible for cost-sharing reductions.

You are ineligible 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:

