



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

## Notice of Decision

Decision Date: March 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013518

[REDACTED]

Dear [REDACTED],

On February 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 16, 2016 eligibility determination notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

### Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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## Decision

Decision Date: March 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013518



## 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 \$194.00 per month in advance payments of the premium tax credit as of November 16, 2016?

Did NYSOH properly determine that you were eligible for cost-sharing reductions as of November 16, 2016?

Did NYSOH properly determine that you were not eligible to enroll in the Essential Plan as of November 16, 2016?

## Procedural History

On August 20, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan for a limited time effective as of October 1, 2016. The notice directed you to submit income documentation by November 17, 2016, to confirm your eligibility.

Also on August 20, 2016, NYSOH issued an enrollment notice confirming that as of August 19, 2016, you were enrolled in an Essential Plan with an enrollment start date of October 1, 2016. The notice directed you to submit income documentation by November 17, 2016, to confirm your eligibility.

On November 15, 2016, your NYSOH account was updated.

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On November 16, 2016, NYSOH issued an eligibility determination notice stating that you were newly eligible to receive up to \$194.00 of advance premium tax credit and cost-sharing reductions effective as of December 1, 2016. The notice also stated that you are not eligible for coverage through the Essential Plan as of November 30, 2016.

On November 22, 2016, NYSOH issued a notice stating that your coverage with the Essential Plan would end November 30, 2016.

On November 23, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal relative to the amount of financial assistance you were determined eligible to receive.

On February 28, 2017, you had a telephone hearing with a Hearing Officer from the 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 want to be determined eligible to enroll in the Essential Plan.
2. According to your NYSOH account and your testimony, you are applying for health insurance for yourself.
3. According to your NYSOH account and your testimony, you expect to file a 2016 federal income tax return using the tax status of single and will not be claiming any dependents on that tax return.
4. According to your November 15, 2016 application, you attested to an expected yearly income of \$27,502.33. You testified this amount is not accurate.
5. You testified that you were employed at [REDACTED] from January 1, 2016 through April 1, 2016 and earned approximately \$6,000.00.
6. You testified that your employment at [REDACTED] began on April 7, 2016.
7. You testified that you work 40 hours a week at [REDACTED] and earned:

- (a) \$11.00 per hour from April 7, 2016 through July 7, 2016;
- (b) \$14.00 per hour from July 8, 2016 through October 7, 2016;
- (c) \$15.50 per hour from October 8, 2016 to the present.

8. You testified that you claimed a student loan interest deduction of approximately \$457.67.
9. You testified that, based on your expenses, you are unable to afford the health insurance through NYSOH.
10. According to your NYSOH account, you reside in Queens County, New York.

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 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 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. 2016-62).

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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).

For annual household income in the range of at least 200% but less than 250% of the 2015 FPL, the expected contribution in 2016 is between 6.41% and 8.18% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc.2016-62).

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, (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).

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).

### 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 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 eligible for APTC of up to \$194.00 per month.

The application that was submitted on November 15, 2016 listed an annual household income of \$27,502.33, and the eligibility determination relied upon that information.

You are in a one-person household for purposes of this analysis. This is because you expected to file your 2016 federal income tax return with the tax status of single and expected to claim no dependents on that tax return.

You reside in Queens County, where the second lowest cost silver plan available for an individual through NYSOH was \$368.26 per month in 2016.

An annual income of \$27,502.33 is 233.66% of the 2015 FPL for a one-person household. At 233.66% of the FPL, the expected contribution to the cost of the health insurance premium is 7.60% of income, or \$174.18 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 in your county (\$368.26 per month) minus your expected contribution (\$174.18 per

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month), which equals \$194.08 per month. Therefore, rounding to the nearest dollar, NYSOH properly determined you to be eligible for up to \$194.00 per month in APTC.

The second issue is whether you were properly found you eligible 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 \$27,502.33 is 233.66% of the applicable FPL, NYSOH correctly found you to be eligible for cost sharing reductions, based on the information contained in your November 15, 2016 application.

The third issue under review is whether NYSOH properly determined that you were not eligible to enroll in an Essential Plan as of November 16, 2016.

In the application that was submitted on November 15, 2016 you attested to an annual household income of \$27,502.33 and the eligibility determination issued on November 16, 2016 relied on that information.

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. In 2016, the applicable FPL was \$11,770.00. Therefore, the income threshold to enroll in the Essential Plan was \$23,540.00 ( $\$11,770.00 \times 200\%$ ) on the date of your application. Since your income of \$27,502.33 exceeded the Essential Plan threshold, NYSOH correctly determined you to be ineligible to enroll in the Essential Plan.

However, you testified that \$27,502.33 may not accurately represent your expected household income. The record reflects that you were employed at [REDACTED] from January 1, 2016 through April 1, 2016 and earned approximately \$6,000.00. Furthermore, you were employed at [REDACTED] from April 7, 2016 through December 31, 2016 and worked 40 hours per week. During that employment period with [REDACTED] you were issued: (1) \$11.00 per hour for a thirteen-week period; (2) \$14.00 per hour for a thirteen-week period; and (3) \$15.50 per hour for a twelve-week period. Lastly, you expected to claim a \$457.67 student loan interest deduction on your tax return.

Based on the available record, your expected 2016 income was (\$6,000.00 (+) \$5,720.00 (+) \$7,280.00 (+) \$7,440.00 (-) \$457.67), which equals \$25,982.33. The income that you testified to also exceeded the income threshold of 200% of the 2015 FPL, or \$23,540.00, to enroll in the Essential Plan. Therefore, your case will not be RETURNED to NYSOH to redetermine your eligibility to enroll in the Essential Plan.



Based on the foregoing analysis, the November 16, 2016 eligibility determination notice stating that you were eligible to receive up to \$194.00 in APTC per month, eligible for cost sharing reductions, and ineligible to enroll in the Essential Plan, effective December 1, 2016, is 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 2016 and 2017, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

## **Decision**

The November 16, 2016 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** March 10, 2017

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

NYSOH properly determined you eligible for up to \$194.00 of APTC per month and cost sharing reductions effective December 1, 2016.

NYSOH properly determined you not eligible to enroll in the Essential Plan as of November 16, 2016.

## **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 date 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 date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

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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 November 16, 2016 eligibility determination notice is AFFIRMED.

NYSOH properly determined you eligible for up to \$194.00 of APTC per month and cost sharing reductions effective December 1, 2016.

NYSOH properly determined you not eligible to enroll in the Essential Plan as of November 16, 2016.

### **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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

