



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

Notice of Decision

Decision Date: February 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013581

[REDACTED]

Dear [REDACTED]

On February 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 26, 2015 and November 29, 2016 eligibility determinations.

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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Was your appeal of the NY State of Health's (NYSOH) November 26, 2015 eligibility determination notice timely?

Did NYSOH properly determine that you were eligible to receive up to \$300.00 per month in advance payments of the premium tax credit, effective January 1, 2017?

Did NYSOH properly determine that you were not eligible for cost-sharing reductions?

Procedural History

On November 24, 2015, NYSOH received your application for health insurance.

On November 25, 2015, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to \$158.00 in advance payments of the premium tax credit (APTC) per month, effective January 1, 2016. That notice also stated that you were not eligible for cost-sharing reductions because your income was over the allowable income limit for that program. This eligibility was based on a household income of \$32,240.00.

Also on November 25, 2015, NYSOH issued an enrollment confirmation notice stating that you were enrolled in a gold level qualified health plan with a monthly premium of \$304.61 after your APTC was applied.

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On October 16, 2016, NYSOH issued a renewal notice stating that you had been reenrolled into your gold level qualified health plan for 2017 coverage and that you qualified for a maximum APTC of \$241.90, effective January 1, 2017.

On November 28, 2016, you updated your application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$300.00 in APTC, effective January 1, 2017.

Also on November 28, 2016, you spoke to NYSOH's Account Review Unit and appealed the amount of your APTC for 2016 insofar as your APTC for 2017 was of a greater amount.

On November 29, 2016, NYSOH issued a notice of eligibility determination, based on the November 28, 2016 application, stating that you were eligible to receive up to \$300.00 in APTC, effective January 1, 2017. That notice also stated that you were not eligible for cost-sharing reductions because your income was over the allowable income limit for that program. This eligibility was based on a household income of \$34,000.00.

Also on November 29, 2016, NYSOH issued an enrollment confirmation notice stating that you were enrolled in gold level qualified health plan with a monthly premium of \$221.48 after your APTC was applied.

On February 8, 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 are appealing the fact that the amount of APTC you were eligible for changed between 2016 and 2017 even though your income remained the same.
- 2) You filed an appeal on November 28, 2016.
- 3) You testified that you expect to file your 2017 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 4) You are seeking insurance for yourself.
- 5) The application that was submitted on November 28, 2016 listed annual household income of \$34,000.00, consisting of income you earn from your

employment. You testified that this amount was based on paystubs at the time.

- 6) Your application states that you will not be taking any deductions on your 2017 tax return.
- 7) Your application states that you live in Chemung County.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(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)).

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 2017 is set by federal law at 2.04% to 9.69% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc.2016-24).

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 2016 FPL, which is \$11,880.00 for a one-person household (81 Fed. Reg. 4036.).

For annual household income in the range of at least 250% but less than 300% of the 2016 FPL, the expected contribution is between 8.21% and 9.69% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc.2016-24).

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)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's November 26, 2015 eligibility determination notice was timely.

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).

On November 26, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$158.00 in APTC, effective January 1, 2016.

You testified that you are appealing the fact that the amount of APTC you were eligible for changed between 2016 and 2017, even though your income remained the same.

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the amount of APTC you were eligible for, effective January 1, 2016, as indicated in the November 26, 2015 eligibility determination notice, an appeal should have been filed by January 24, 2016. According to the credible evidence in the record, you did not contact NYSOH until November 28, 2016 to file a formal appeal, which is well beyond 60 days from the November 26, 2015 eligibility determination notice.

Therefore, there has been no timely appeal of the November 26, 2015 eligibility determination notice, and your appeal on the issue of the amount of APTC for the year 2016 is DISMISSED.

The second issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$300.00 per month effective January 1, 2017.

The application that was submitted on November 28, 2016 listed an annual household income of \$34,000.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2017 income taxes as single and will claim no dependents on that tax return.

You reside in Chemung County, where the second lowest cost silver plan available for an individual through NYSOH costs \$562.51 per month.

An annual income of \$34,000.00 is 286.2% of the 2016 FPL for a one-person household. At 286.2% of the FPL, the expected contribution to the cost of the health insurance premium is 9.28% of income, or \$262.93 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 (\$562.51 per month) minus your expected contribution (\$262.93 per month), which equals \$299.58 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$300.00 per month in APTC.

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The third issue 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 \$34,000.00 is 286.2% of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

Since the November 29, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$300.00 per month in APTC, and ineligible for cost-sharing reductions, it is correct and is AFFIRMED.

Decision

Your appeal of the November 26, 2015 eligibility determination notice is untimely and is DISMISSED.

The November 29, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 27, 2017

How this Decision Affects Your Eligibility

You were properly determined to be eligible for up to \$300.00 in APTC.

You were properly determined ineligible for cost-sharing reductions.

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)).

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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
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- By fax: 1-855-900-5557

Summary

Your appeal with regard to the November 26, 2015 eligibility determination notice is **DISMISSED** as untimely.

The November 29, 2016 eligibility determination notice is **AFFIRMED**.

You were properly determined to be eligible for up to \$300.00 in APTC.

You were properly determined ineligible for cost-sharing reductions.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

