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

Notice of Decision

Decision Date: March 29, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000013659

[redacted]

Dear [redacted]

On March 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 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.

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

Decision

Decision Date: March 29, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000013659

[redacted]

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 and your spouse were eligible to receive up to $647.00 per month in advance payments of the premium tax credit (APTC), effective January 1, 2017?
>
> Did NYSOH properly determine that you and your spouse were eligible for cost-sharing reductions?
>
> Did NYSOH properly determine that you and your spouse were not eligible for the Essential Plan?

Procedural History

On November 21, 2016, you submitted an updated application for financial assistance.

On November 22, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to receive up to $647.00 in APTC and eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective January 1, 2017. That notice also stated that you were not eligible for the Essential Plan because your income was over the allowable income limit for that program.

On December 1, 2016, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination, insofar as you and your spouse were not

found eligible for the Essential Plan. You also requested Aid to Continue, pending the outcome of your appeal.

On December 9, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for the Essential Plan for a limited time, effective January 1, 2017. This was because you were granted Aid to Continue, pending the outcome of your appeal. You and your spouse were subsequently enrolled into an Essential Plan, beginning January 1, 2017.

On March 9, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open through March 24, 2017, to allow you to submit supporting documents.

On March 22, 2017, NYSOH uploaded a seven-page fax that you sent to the Appeals Unit. No further documents were received. The record is now closed.

Findings of Fact

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

1) You testified that you expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim two dependents on that tax return.

2) You are seeking insurance for yourself and your spouse.

3) The application that was submitted on November 22, 2016 listed annual household income of $49,998.00, consisting of income your spouse earns from employment. You testified that this amount was correct.

4) You testified that you are starting a business, but have only earned a few hundred dollars in profit so far.

5) You testified that you believe your 2017 household income will be about the same as your 2016 household income.

6) Your application states that you will not be taking any deductions on your 2017 tax return.

7) You testified that you do expect to take some deductions for student loan interest, though you were not sure how much. You also testified that you might be taking deductions for business expenses, though you are not sure how much.

8) After the hearing, you submitted a seven-page fax to NYSOH consisting of the following documentation:

a. A one-page fax cover sheet;
b. A one-page IRS Form 1098-E showing student loan interest of $991.79 paid in 2016;
c. A one-page IRS Schedule A for 2016 showing itemized deductions;
d. A one-page [redacted] Gross Income Tax Business Income Summary Schedule for 2016;
e. A one-page [redacted] Gross Income Tax Alternative Business Calculation Adjustment for 2016;
f. A one-page NY State Resident Itemized Deduction Schedule Form IT-201-D for 2016;
g. A one-page 2016 year end statement from [redacted] showing total payments of $12,438.00 for 2016.

These documents are collectively marked and entered into the record as "Appellant's Exhibit One."

9) Your application states that you live in Rockland County.

10) You testified that you and your spouse were eligible for the Essential Plan last year, and you believe that you should be eligible again this year.

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)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of finds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to $2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed $160,000 (26 USC § 221; see also 26 USC § 62 (17)).

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 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 $24,300.00 for a four-person household (81 Fed. Reg. 4036.).

For annual household income in the range of at least 200% but less than 250% of the 2016 FPL, the expected contribution is between 6.43% and 8.21% 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)).

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 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 2016 FPL, which is $24,300.00 for a four-person household (81 Fed. Reg. 4036.).

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).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible for an APTC of up to $647.00 per month.

The application that was submitted on November 21, 2016 listed an annual household income of $49,998.00, and the eligibility determination relied upon that information.

You are in a four-person household. You expect to file your 2017 income taxes as married filing jointly and will claim two dependents on that tax return.

You reside in Rockland County, where the second lowest cost silver plan available for a couple through NYSOH costs $922.98 per month.

An annual income of $49,998.00 is 205.75% of the 2016 FPL for a four-person household. At 205.75% of the FPL, the expected contribution to the cost of the health insurance premium is 6.63% of income, or $276.24 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 a couple in your county ($922.98 per month) minus your expected contribution ($276.24 per month), which equals $646.74 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your spouse to be eligible for up to $647.00 per month in APTC, based on the information in your November 21, 2016 application.

The second issue under review is whether you and your spouse were properly found eligibile 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 $49,998.00 is 205.75% of the applicable FPL, NYSOH correctly found you and your spouse to be eligible for cost sharing reductions.

The third issue under review is whether NYSOH properly determined that you and your spouse were ineligible for the Essential Plan as of your November 21, 2016 application.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was $24,300.00 for a four-person household. Since an annual household income of $49,998.00 is 205.75% of the 2016 FPL, NYSOH properly found you and your spouse to be ineligible for the Essential Plan, based on the information in your November 21, 2016 application.

Since the November 22, 2016 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible to receive up to $647.00 per month in APTC, and eligible for cost-sharing reductions, effective January 1, 2017, it was correct and is AFFIRMED.

However, at the hearing you testified that you expected to take a deduction for student loan interest paid. You testified that you were not sure how much that deduction would be, and that you might be taking other deductions as well.

NYSOH bases its eligibility determinations on modified adjusted gross income. This means gross federal income minus certain specific deductions. Interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to $2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed $160,000.

After the hearing, you submitted documentation regarding your income, including an IRS form 1098-E showing that you paid $991.79 in student loan interest in 2016. You submitted other tax documentation, but nothing else that clearly shows permissible deductions for the purposes of calculating modified adjusted gross income.

Since you testified that you expect to take a student loan interest deduction again in 2017, this deduction should be included in a calculation of your modified adjusted gross income, and would bring your expected gross annual income to $49,006.21.

Since the record now contains a more accurate representation of what your expected annual household income is, your case is RETURNED to NYSOH to recalculate your and your spouse's eligibility for financial assistance with the cost of your health insurance for 2017, based on a household of four, with an expected gross annual household income of $49,006.21, residing in Rockland County.

NYSOH is directed to notify you in writing of its eligibility determination.

PLEASE REMEMBER that it is your obligation to report any changes in your income to NYSOH within thirty days of the change.

Decision

The November 22, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your and your spouse's 2017 eligibility for financial assistance, based on a household of four with an expected annual household income of $49,006.21, residing in Rockland County.

NYSOH is directed to notify you of your eligibility in writing.

Effective Date of this Decision: March 29, 2017

How this Decision Affects Your Eligibility

You and your spouse were eligible to receive up to $647.00 per month in APTC, and eligible for cost-sharing reductions, based on the information contained in your November 21, 2016 application.

However, since you submitted documentation of your student loan interest payments, your case is being sent back to NYSOH to redetermine your and your spouse's eligibility for financial assistance, based on this new income information.

You are responsible for reporting any changes in your household income, or other changes that could affect your eligibility, to NYSOH within thirty days of such a change.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061

- By fax: 1-877-369-0129

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 22, 2016 eligibility determination is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your and your spouse's 2017 eligibility for financial assistance, based on a household of four with an expected annual household income of $49,006.21, residing in Rockland County.

NYSOH is directed to notify you of your eligibility in writing.

You and your spouse were eligible to receive up to $647.00 per month in APTC, and eligible for cost-sharing reductions, based on the information contained in your November 21, 2016 application.

However, since you submitted documentation of your student loan interest payments, your case is being sent back to NYSOH to redetermine your and your spouse's eligibility for financial assistance, based on this new income information.

You are responsible for reporting any changes in your household income, or other changes that could affect your eligibility, to NYSOH within thirty days of such a change.

Legal Authority

We are sending you this notice in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

[redacted]

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).

Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。 如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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).

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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).