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

Notice of Decision

Decision Date: May 2, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000013866

[redacted]

Dear [redacted],

On April 26, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 3, 2016 eligibility determination notice.

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: May 2, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000013866

[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, your spouse, and your oldest child were eligible to receive up to $823.00 per month in advance payments of the premium tax credit, effective January 1, 2017?
>
> Did NYSOH properly determine that you, your spouse, and your oldest child were eligible for cost-sharing reductions?
>
> Did NYSOH properly determine that you, your spouse, and your oldest child were not eligible for the Essential Plan?

Procedural History

On June 1, 2016, NYSOH issued an eligibility determination based on the information contained in the May 31, 2016 application. This notice stated that you, your spouse, and your oldest child were each eligible to enroll in the Essential Plan with a monthly premium of $20.00. The notice also stated that your youngest child was eligible to enroll in Child Health Plus (CHP) with a monthly premium of $9.00. This eligibility determination was effective July 1, 2016.

On June 4, 2016, NYSOH issued an enrollment notice confirming your selection of an Essential Plan for you, your spouse, and your oldest child, as of June 1, 2016. Coverage under the Essential Plan was determined to begin effective July 1, 2016. The notice also confirmed your selection of a CHP plan for your

youngest child as of June 1, 2016. Your youngest child's CHP plan coverage would begin effective July 1, 2016.

On December 2, 2016, NYSOH received a revised application for health insurance.

On December 3, 2016, NYSOH issued an eligibility determination notice based on the information contained in the December 3, 2016 application. The notice stated that you, your spouse, and your oldest child were eligible to receive an advance premium tax credit (APTC) of up to $823.00 per month; eligible for cost-sharing reductions, provided you enrolled in a silver-level plan; and, ineligible for the Essential Plan. The notice also stated that your youngest child was eligible for CHP with a $9.00 monthly premium. This eligibility determination was effective January 1, 2017.

Also on December 3, 2016, NYSOH issued an enrollment notice confirming your youngest child's enrollment in a CHP plan as of December 2, 2016. The notice stated that your youngest child's CHP coverage had begun as of July 1, 2016. This notice also advised you to select a qualified health plan (QHP) for the enrollment of you, your spouse, and your oldest child.

On December 7, 2016, you spoke to NYSOH's Account Review Unit and appealed that you, your spouse, and your oldest child had been found eligible for APTC and CSR, rather than remaining eligible to enroll in an Essential Plan.

On March 6, 2017, NYSOH received a completed Authorized Representative Designation Form reflecting that you wished for your spouse, [redacted], to act as your Authorized Representative for all matter related to your account, including your appeal.

On April 25, 2017, NYSOH received (1) a copy of a mortgage statement, dated March 16, 2017, issued to your spouse by [redacted], (2) a letter issued by [redacted], dated April 23, 2017, in support of seeking more affordable health coverage due to medical conditions experienced by you and your family, (3) a screenshot of your banking account with [redacted] reflecting your checking and savings balances, and (4) prescription listing spreadsheets generated by [redacted] reflecting prescriptions issued to you and your family.

On April 26, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: your 2016 tax return and college bill for your youngest child reflecting interest paid on student loan for 2016. The record was to be closed at 5:00 p.m. on April 28, 2017, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you provided copies of your 2016 tax return and a 1098-E reflecting interest paid toward your oldest child's student loans during 2016 to the Appeals Unit through your NYSOH account.

Accordingly, the record was closed on April 26, 2017.

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 your two children as dependents on that tax return.

2) You testified are seeking insurance for you, your spouse and your oldest child, since your youngest child was already enrolled in a CHP plan through NYSOH.

3) The application that was submitted on December 2, 2016 listed annual household income of $51,260.00, consisting of $850.00 per week your spouse earns from his employment with [redacted] and $10.25 per hour your oldest child receives from her employment with [redacted] over an approximately 20-hour work week. You testified that this was accurate when you submitted your application.

4) The application submitted on December 2, 2016 also reflects that your youngest child expects to receive $9.50 per week from his employment with [redacted] over a 10-hour work week.

5) You testified, and your application reflects, that you are not currently employed.

6) You testified during the hearing, however, that your youngest child's position with [redacted] was seasonal in nature, and that he only expected to work between for approximately three months, between June and August 2017 due to an injury he sustained during the month of January 2017 and since he would be attending school beginning in September 2017.

7) Your application states that you anticipated taking a deduction of $300.00 per month for your oldest child's student loan interest.

8) You live in Ontario County, New York.

9) On April 26, 2017, you provided a copy of a 1098-E issued to your oldest child reflecting $290.88 in student loan interest received by her lender during 2016. You testified that this would likely be the same amount during 2017 since her loans were still in repayment.

10) On April 26, 2017, you provided a copy of your 2016 tax return reflecting an adjusted gross income (Line 37) of $46,346.00, and a student loan interest deduction (Line 33) of $291.00.

11) You testified that you were seeking for you, your spouse, and your oldest child to be found eligible for the Essential Plan again since the QHP's available to you, even after applying the maximum APTC, are unaffordable.

12) You testified that the Essential Plan coverage had a more comprehensive prescription drug coverage, and that is essential to you and your family.

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 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 Federal Register 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 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).

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).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (*see* 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Legal Analysis

The first issue is whether NYSOH properly determined that you, your spouse and your oldest child were eligible for an APTC of up to $823.00 per month.

The application that was submitted on December listed an annual household income of $51,260.00, which was comprised of (1) $44,200.00 ($850.00 x 52 weeks) your spouse expects to earn from his employment with [redacted] (2) $10,660.00 ($10.25/hour x 20 hours x 52 weeks) your oldest child receives from her employment with [redacted] over an approximately 20 hour work week, and (3) a $3,600.00 ($300.00 x 12 months) in student loan interest your oldest child expects to take as a deduction during 2017. Your youngest child's income was not included in your annual household income since it did not meet the required income threshold under IRS rules. 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 your two children as dependents on that tax return.

You reside in Ontario County, where the second lowest cost silver plan available for a couple with a dependent through NYSOH costs $1,113.75 per month.

An annual income of $51,260.00 is 210.95% of the 2016 FPL for a four-person household. At 210.95% of the FPL, the expected contribution to the cost of the health insurance premium is 6.82% of income, or $291.33 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 with one dependent in your county ($1,113.75 per month) minus your expected contribution ($291.33 per month), which equals $822.42 per month. Therefore, rounding up to the nearest dollar, NYSOH correctly determined you to be eligible for up to $823.00 per month in APTC.

The second issue is whether you, your spouse and your oldest child were properly found eligible for CSR.

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of $51,260.00 is 210.95% of the applicable FPL, NYSOH correctly found you, your spouse and your oldest child to be eligible for CSR.

The third issue under review is whether NYSOH properly determined that you, your spouse and your oldest child were not eligible for the Essential Plan.

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 $51,260.00 is 210.95% of the 2016 FPL, NYSOH properly found you to be not eligible for the Essential Plan.

Since the December 3, 2016 eligibility determination properly stated that, based on the information you provided, you, your spouse and your oldest child were eligible for up to $823.00 per month in APTC, eligible for CSR, and ineligible for the Essential Plan, it is correct and is AFFIRMED.

The record reflects, because of your testimony, that you expect to take only $300 as a deduction for student loan payments of interest to the lender during 2017, rather than $3,600.00 as was referenced in your December 2, 2016 application.

Accordingly, your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on a four-person household in Ontario County, with an annual household income of $54,560.00.

Decision

The December 3, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your eligibility for financial assistance based on a four-person household in Ontario County, with an annual household income of $54,560.00.

At the sole authority of the NYSOH Appeals Unit, your family is awarded a special enrollment period to select a QHP. You have 60 days from the date of this Decision in which to select a QHP for your coverage for the remainder of the 2017 plan year.

Effective Date of this Decision: May 2, 2017

How this Decision Affects Your Eligibility

You, your spouse and your oldest child were eligible for an APTC of up to $823.00 and, if you select a silver-level plan, eligible for CSR.

You, your spouse and your oldest child are not eligible for the Essential Plan.

You will receive a new eligibility determination notice based on a four-person household in Ontario County, with an annual household income of $54,560.00

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 December 3, 2016 eligibility determination notice is AFFIRMED.

You, your spouse and your oldest child were eligible for an APTC of up to $823.00 and, if you select a silver-level plan, eligible for CSR.

You, your spouse and your oldest child are not eligible for the Essential Plan.

You will receive a new eligibility determination notice based on a four-person household in Ontario County, with an annual household income of $54,560.00

At the sole authority of the NYSOH Appeals Unit, your family is awarded a special enrollment period to select a QHP. You have 60 days from the date of this Decision in which to select a QHP for your coverage for the remainder of the 2017 plan year.

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:

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).