



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

## Notice of Decision

Decision Date: March 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013951

[REDACTED]

Dear [REDACTED],

On February 22, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 13, 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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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013951



## 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 eligible to receive \$0.00 per month in advance payments of the premium tax credit, effective January 1, 2017?

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

## Procedural History

On December 12, 2016, NY State of Health (NYSOH) received your completed application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible for \$0.00 in APTC.

Also on December 12, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your eligibility for APTC.

On December 13, 2016, NYSOH issued an eligibility determination notice based on the information contained in the December 12, 2016 application, stating that you were eligible for \$0.00 in APTC, effective January 1, 2017. The notice stated that you were ineligible for cost-sharing reductions because your household income was over the allowable limit.

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On February 22, 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 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.
- 3) The application that was submitted on December 12, 2016 listed an annual household income of \$69,500.00, consisting of income you earn from your employment. However, you testified that you anticipate earning \$70,000.00.
- 4) You testified that your spouse receives Social Security benefits in the amount of \$450.00 each month as of November 1, 2016.
- 5) Your application states that you will not be taking any deductions on your 2017 tax return.
- 6) Your application states that you live in Westchester County.

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)).

### Advance Payments of Premium Tax Credit

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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)).

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 for a four-person household (80 Federal Register 3236, 3237).

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. (45 CFR § 155.300(a), IRS Rev. Proc. 2014-37.)

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

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).

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 is whether NYSOH properly determined that you were eligible for an APTC of \$0.00 per month.

The application that was submitted on December 12, 2016 listed an annual household income of \$69,500.00 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 Westchester County, where the second lowest cost silver plan available for an individual through NYSOH costs \$461.49 per month.

An annual income of \$69,500.00 is 286.01% of the 2016 FPL for a four-person household. At 286% of the FPL, the expected contribution to the cost of the health insurance premium is 9.28% of income, or \$537.47 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 (\$461.49 per month) minus your expected contribution (\$537.47 per month). Since your expected contribution exceeds the cost of the second lowest cost silver plan in your county, NYSOH properly determined that you were eligible for \$0.00 in APTC.

The second issue is whether you were properly found 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 \$69,500.00 is 286.01% of the applicable FPL, NYSOH correctly found you to be ineligible for cost sharing reductions.

Therefore, the December 13, 2016 eligibility determination notice is **AFFIRMED** because it properly found you eligible for \$0.00 in APTC and not eligible for cost-sharing reductions based on the information contained in your application.

However, at the hearing you testified to additional income information that was not part of your application. You testified that during 2017 you plan to receive

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about \$70,000.00 in earned income. You further testified that your spouse expects to receive \$450.00 monthly in Social Security benefits, which yields approximately \$5,400.00 annually. These amounts would result in a modified adjusted gross income of \$75,400.00.

Therefore, your case is RETURNED to NYSOH for a redetermination of your household's eligibility based on a four-person household in Westchester County with a 2017 attested household income of \$75,400.00.

## **Decision**

The December 13, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH for a redetermination of your household's eligibility based on a four-person household in Westchester County with a 2017 attested household income of \$75,400.00.

**Effective Date of this Decision:** March 7, 2017

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

You were properly determined eligible for \$0.00 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  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The December 13, 2016 eligibility determination notice is AFFIRMED.

You were properly determined eligible for \$0.00 in APTC.

You were properly determined ineligible for cost-sharing reductions.

Your case is RETURNED to NYSOH for a redetermination of your household's eligibility based on a four-person household in Westchester County with an attested 2017 household income of \$75,400.00.

### **Legal Authority**

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



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

