



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

Notice of Decision

Decision Date: March 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014456

[REDACTED]

Dear [REDACTED],

On March 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 24, 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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NY State of Health Account ID: [REDACTED]
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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 \$687.00 per month in advance payments of the premium tax credit, effective February 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 23, 2016, NYSOH received (1) a letter issued by [REDACTED] dated November 18, 2016, confirming that your spouse's employment ended effective November 18, 2016, and (2) three earnings statements issued to you from your employer, [REDACTED] reflecting earnings you received on October 7, 2016 and November 8, 2016 and December 8, 2016.

On December 23, 2016, NYSOH received an Unemployment Insurance Monetary Benefit Determination, dated November 22, 2016, confirming your spouse's weekly benefit rate of \$430.00, effective November 21, 2016.

Also on December 23, 2016, you submitted an application for financial assistance.

On December 24, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$687.00 per month, eligible to receive cost-sharing reductions if you enrolled in a silver level qualified health plan, effective February 1, 2017. That notice also stated that you and your spouse were not eligible for the Essential Plan because your income was over the allowable income limit for that program.

On December 30, 2016, you spoke to NYSOH's Account Review Unit and appealed that you and your spouse were found eligible for APTC and CSR, rather than for the Essential Plan.

On January 6, 2017, NYSOH received a screenshot of your spouse's Official record of Benefit Payment History, reflecting unemployment benefits he received between December 5, 2016 and December 15, 2016.

On March 16, 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 your child as a dependent on that tax return.
- 2) You are seeking insurance for you and your spouse, since your child was already enrolled in a Child Health Plus plan.
- 3) The application that was submitted on December 23, 2016 listed annual household income of \$41,180.00, consisting of \$2,500.00 per month you earn from your employment with [REDACTED] and \$430.00 per week your spouse receives in - unemployment benefits. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2017 tax return.
- 5) You live in [REDACTED] County, New York.

- 6) You testified that the plans available through NYSOH are not affordable based on your income plus your spouse's unemployment benefits.
- 7) You testified that you were seeking for both you and your spouse to become eligible for the Essential Plan, rather than for APTC.

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 \$20,160.00 for a three-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).

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 \$20,160.00 for a three-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)).

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Legal Analysis

The first issue is whether NYSOH properly determined that you and your spouse eligible for an APTC of up to \$687.00 per month.

The application that was submitted on December 23, 2016 listed an annual household income of \$41,180.00, which was comprised of \$30,000.00 (\$2,500.00 x 12 months) you expect to receive from your employment with [REDACTED] and a total of \$11,180.00 (\$430.00 x 26 weeks) your spouse expects to receives in unemployment benefits. The eligibility determination relied upon that information.

You and your spouse are in a three-person household. You expect to file your 2017 income taxes as married filing jointly and will claim your child as a dependent on that tax return.

You and your spouse reside in [REDACTED] County, where the second lowest cost silver plan available for a couple through NYSOH costs \$912.91 per month.

An annual income of \$41,180.00 is 204.26% of the 2016 FPL for a three-person household. At 204.26% of the FPL, the expected contribution to the cost of the health insurance premium is 6.58% of income, or \$225.87 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 (\$912.91 per month) minus your expected contribution (\$225.87 per month), which equals \$687.04 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you and your spouse to be eligible for up to \$687.00 per month in APTC.

The second issue is whether you and your spouse 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 \$41,180.00 is 204.26% of the applicable FPL, NYSOH correctly found you and your spouse to be eligible for CSR.

The third issue under review is whether NYSOH properly determined that you and your spouse were ineligible 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

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date of your application, the relevant FPL was \$20,060.00 for a three-person household. Since an annual household income of \$41,180.00 is 204.26% of the 2016 FPL, NYSOH properly found you to be eligible for the Essential Plan.

Since the December 24, 2016 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for up to \$687.00 per month in APTC, eligible for CSR, and ineligible for the Essential Plan, it is correct and is AFFIRMED.

Decision

The December 24, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 21, 2017

How this Decision Affects Your Eligibility

You and your spouse were eligible for an APTC of up \$687.00 per month.

You and your spouse were eligible for CSR.

You and your spouse were not eligible for the Essential Plan.

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)).

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

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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 24, 2016 eligibility determination notice is AFFIRMED.

You and your spouse were eligible for an APTC of up \$687.00 per month.

You and your spouse were eligible for CSR.

You and your spouse were not eligible for the Essential Plan.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

