



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

Notice of Decision

Decision Date: June 26, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000015704

[REDACTED]

Dear [REDACTED],

On June 1, 2017, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's February 10, 2017 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 Date: June 26, 2017

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 your spouse was eligible to receive up to \$241.00 per month in advance payments of the premium tax credit, effective March 1, 2017?

Did NYSOH properly determine your spouse was eligible for cost-sharing reductions only if she enrolled in a silver-level qualified health plan?

Procedural History

On February 9, 2017, you and your spouse updated your application for financial assistance indicating you were no longer applying for health insurance. That day, a preliminary eligibility determination was prepared stating your spouse was eligible to receive up to \$241.00 in advance payments of the premium tax credit (APTC) and eligible to receive cost-sharing reductions if she enrolled in a silver-level qualified health plan, effective March 1, 2017.

Also on February 9, 2017, you spoke to NYSOH's Account Review Unit and appealed that eligibility determination insofar as your spouse was not eligible for an increased amount of APTC.

On February 10, 2017, NYSOH issued a notice of eligibility determination, based on the February 9, 2017 application, stating your spouse was eligible to receive up to \$241.00 in APTC and eligible to receive cost-sharing reductions if she enrolled in a silver-level qualified health plan, effective March 1, 2017.

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On February 15, 2017, NYSOH issued an enrollment notice, based on your February 9, 2017 plan selection, confirming your spouse was enrolled in a bronze level individual qualified health plan with \$241.00 of APTC applied, effective March 1, 2017.

On June 1, 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) An updated application was submitted on behalf of you and your spouse on November 17, 2016. That application indicated you were both applying for health insurance and listed a household income of \$39,949.00 consisting of monthly Social Security benefits received by you and your spouse as well as your monthly pension payments. The household income amount listed included \$16,836.00 in deductions.
- 2) Based on the information in that application, you and your spouse were eligible to receive up to \$754.00 in combined monthly APTC.
- 3) You and your spouse enrolled in a bronze level couples qualified health plan with \$754.00 in APTC applied to the monthly premium, effective January 1, 2017. The monthly premium for this couples plan, after APTC applied, was \$97.94.
- 4) On February 9, 2017, an updated application was submitted on behalf of you and your spouse. That application indicated you, [REDACTED] were no longer applying for health insurance through NYSOH.
- 5) You testified you began receiving Medicare in March 2017, so you opted to end your health coverage through NYSOH.
- 6) The February 9, 2017 application contained the same income information as the previous, November 17, 2016 application, and listed an annual household income of \$39,949.00.
- 7) You and your spouse confirmed the income information listed in the February 9, 2017 application was accurate; however, you contended that because you [REDACTED] were no longer applying for health coverage your income should not have been included in the application for financial assistance with health coverage for your spouse.

- 8) You testified that since you ended your coverage through NYSOH, your spouse's tax credits have been halved and that the premium payment for her individual plan is double what you paid for the couple's plan.
- 9) You testified you are seeking to have your spouse's eligibility for APTC recalculated based only on the income she receives.
- 10) You testified, and the applications indicate, you and your spouse expect to file your 2017 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 11) You are seeking insurance for your spouse only.
- 12) You testified, and your applications indicate, you and your spouse reside in Onondaga County.

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

Applicable Law and Regulations

Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(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

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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 \$16,020.00 for a two-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)).

Legal Analysis

The first issue is whether NYSOH properly determined your spouse was eligible for an APTC of up to \$241.00 per month.

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An updated application for financial assistance with health insurance was filed on behalf of you and your spouse on February 9, 2017. That application indicated you were no longer applying for health insurance and only your spouse was seeking coverage. The application listed an annual household income of \$39,949.00 which included monthly Social Security benefits received by you and your spouse as well as your monthly pension payments.

Although you testified that your income should not have been included in the application, because you were no longer applying for coverage, you testified, and the application indicates you and your spouse intend to file your 2017 income taxes with a tax filing status of married filing jointly.

Eligibility for the purposes of APTC and cost-sharing reductions is based on income as well as household size. Pursuant to the regulation, household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes the taxpayer, his or her spouse, and any claimed dependents. Since you and your spouse will file your 2017 tax return with a tax filing status of married filing jointly and will claim no dependents, you both are considered to be in a two-person household.

Eligibility for financial assistance through NYSOH is based on household income, regardless of whether all members of the household are applying for health coverage. Since, pursuant to the regulations, you are considered to be in a two-person household with your spouse, and your income was properly included in the application for financial assistance with your spouse's health coverage.

You and your spouse testified the income information in the February 9, 2017 application listing your annual household income at \$39,949.00 was accurate and the eligibility determination relied on that information.

As discussed above, your spouse is in a two-person household because you will file your 2017 income taxes with a tax filing status of married filing jointly and you will claim no dependents on that tax return.

You reside in Onondaga County, where the second lowest cost silver plan available for an individual through NYSOH costs \$513.31 per month.

An annual income of \$39,949.00 is 249.37% of the 2016 FPL for a two-person household. At 249.37% of the FPL, the expected contribution to the cost of the health insurance premium is 8.19% of income, or \$272.65 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 (\$513.31 per month) minus your expected contribution (\$272.65 per month), which equals \$240.61 per month. Therefore, rounding to the nearest

dollar, NYSOH correctly determined your spouse to be eligible for up to \$241.00 per month in APTC.

The second issue is whether your spouse was properly found eligible for cost-sharing reductions only if she enrolled in a silver-level qualified health plan.

Cost-sharing reductions are available to applications with household income no greater than 250% of the FPL who enroll in a silver-level qualified health plan. The evidence establishes that your household income of \$39,949.00 is 249.37% of the applicable FPL. Therefore, your spouse qualified for cost sharing reductions if she enrolled in a silver-level qualified health plan.

However, according to your account, your spouse enrolled in a bronze-level qualified health plan, effective March 1, 2017. Pursuant to the regulations, eligibility to receive cost-sharing reductions is contingent upon the otherwise eligible applicant enrolling in a silver-level qualified health plan. Since your spouse did not enroll in a silver-level qualified health plan, she is not eligible to receive cost sharing reductions. Accordingly, NYSOH properly determined your spouse was eligible for cost-sharing reductions only if she enrolled in a silver-level qualified health plan.

Since the February 10, 2017 eligibility determination properly stated that, based on the information you provided, your spouse was eligible for up to \$241.00 per month in APTC and was eligible for cost-sharing reductions only if she enrolled in a silver-level qualified health plan, it is correct and is AFFIRMED.

Decision

The February 10, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 26, 2017

How this Decision Affects Your Eligibility

This decision does not change your spouse's eligibility.

Your spouse remains eligible for up to \$241.00 in APTC.

Your spouse is eligible for cost-sharing reductions only if she enrolls in a silver-level qualified health plan.

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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The February 10, 2017 eligibility determination notice is AFFIRMED.

This decision does not change your spouse's eligibility.

Your spouse remains eligible for up to \$241.00 in APTC.

Your spouse is eligible for cost-sharing reductions only if she enrolls in a silver-level qualified health 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:



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 مجاناً.

বাংলা (Bengali)

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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।

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 महत्वपूर्ण 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 ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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