



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

Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: APM00000000004

[REDACTED]

Dear [REDACTED],

On March 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 17, 2015 eligibility determination and the January 21, 2015 enrollment confirmation 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation (CFR) 45 CFR § 155.545(b).

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: August 14, 2015

NY State of Health Number: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you were eligible to receive \$0.00 per month in advance premium tax credit for February 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions for February 2015?

Did the Marketplace properly determine that your coverage start date with Fidelis Care Bronze is March 1, 2015?

Procedural History

On December 14, 2014, the Marketplace received your modified application for health insurance.

On December 15, 2014, the Marketplace issued an eligibility determination notice that stated you and your husband were newly eligible to receive up to \$290.00 per month in advance premium tax credits (APTC). This eligibility was effective January 1, 2015.

Also on December 15, 2014, the Marketplace issued an enrollment confirmation notice that stated as of December 14, 2014 you and your husband were enrolled in EssentialCare Gold, and after your APTC amount was applied, your premium responsibility was \$711.73.

On January 16, 2015, the Marketplace received your modified application for health insurance; your husband was removed from the application because he was no longer seeking insurance through the Marketplace.

On January 17, 2015, the Marketplace issued an eligibility determination notice that stated you were eligible to receive \$0.00 per month in APTC.

On January 19, 2015, the Marketplace issued an enrollment confirmation notice that stated as of January 18, 2015, you were enrolled in EssentialCare Gold with a premium responsibility of \$500.87; no APTC amount was applied to this premium amount. The notice further stated that if you paid your first month's premium, your coverage could start as early as January 1, 2015.

Also on January 19, 2015, the Marketplace sent you a disenrollment notice that stated your husband's coverage with EssentialCare Gold would end effective February 28, 2015.

On January 21, 2015, the Marketplace issued an enrollment confirmation notice that stated as of January 20, 2015, you were enrolled in Fidelis Care Bronze with a premium responsibility of \$308.15. The notice further stated that if you pay your first month's premium, your coverage could start as early as March 1, 2015.

Also on January 21, 2015, the Marketplace sent you a disenrollment notice that stated your insurance coverage with EssentialCare Gold will end effective February 28, 2015.

On February 22, 2015, you submitted a written appeal request. You stated that you were appealing your APTC eligibility for the month of February because when your husband was removed from the insurance plan your premium increased.

On March 25, 2015, you had a hearing with a Hearing Officer from the Marketplace'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 plan on filing your 2015 tax return with a tax filing status of married filing jointly. You will claim one child as a dependent on that tax return.
- 2) At the time of the January 17, 2015 eligibility determination, your application listed an annual household income of \$55,368.00. The record

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reflects that this amount of income has not changed for any of the subsequent determinations that were issued.

- 3) You testified that the income that was listed on your application at the time of the January 17, 2015 eligibility determination was your best guess as to what your household's income will be after tax deductions for 2015.
- 4) You testified that your husband became eligible for Medicare on February 1, 2015.
- 5) You testified that Health Republic is billing you for an EssentialCare Gold individual plan for the month of February.
- 6) You testified that you used your EssentialCare Gold plan in the month of February.
- 7) You testified you paid the couple's premium for the EssentialCare Gold plan for the month of January but you have not paid the individual premium for the month of February.
- 8) You testified that on January 20, 2015, when you realized how much an individual plan with EssentialCare Gold cost, you disenrolled from EssentialCare Gold and reenrolled in Fidelis Care Bronze.
- 9) You testified that you are only appealing your advance premium tax credit eligibility for the month of February and the EssentialCare Gold plan premium amount you are being charged for that month. You would like the lower premium amount you are paying for your Fidelis Care Bronze plan to be applied to February.
- 10) You testified that you reside in Westchester County, New York.

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

Applicable Law and Regulations

Advance Premium Tax Credit

The advance premium tax credit (APTC) is 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

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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 the 2015 tax year is set by federal law at 2.01% to 9.56% of annual 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 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Cost-sharing reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (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 plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

Qualified Health Plan Effective Dates

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a Qualified Health Plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)).

The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR § 155.410(e)).

The Marketplace must ensure coverage is effective on March 1, 2015, for QHP selections received by the Marketplace from January 16, 2015 through February 15, 2015 (45 CFR § 155.410(f)(3)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of \$0.00 for the month of February 2015.

In the application that was submitted on January 16, 2015, you attested to an expected yearly household income of \$55,368.00, and the eligibility determination relied upon that information.

According to the record there are three people in your household. You plan on filing your 2015 tax return with a tax filing status of married filing jointly, and will claim one dependent on that tax return.

The record reflects that your husband was no longer eligible for enrollment in a Marketplace plan as of February 1, 2015. Accordingly, you testified that Health Republic is billing you for an individual plan in the amount of \$500.87 only for the month of February. The record confirms that on January 19, 2015, the Marketplace issued an enrollment confirmation notice that stated as of January 18, 2015 you were enrolled in EssentialCare Gold with a premium responsibility of \$500.87. The notice further states that if you pay your first month's premium, your coverage could start as early as January 1, 2015. You testified that you paid the EssentialCare Gold premium for the month of January, even though it was for a couple's plan; this made your coverage in Essential Care Gold effective January 1, 2015. Based on the record, we will use the cost of an individual plan to determine your eligibility for APTC for the month of February.

Regardless of the premium amount or level of the plan an individual actually enrolls in, the APTC amount a person is eligible for is calculated using the second lowest cost silver plan in that person's county. You reside in Westchester County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$372.40 per month.

An annual income of \$55,368.00 is 279.78% of the 2014 federal poverty level (FPL) for a three-person household. At 279.78% of the FPL, the expected contribution to the cost of the health insurance premium is 8.97% of income, or \$413.88 per month.

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The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$372.40 per month) minus your expected contribution (\$413.88 per month). Therefore, the Marketplace properly determined your APTC amount for the month of February to be \$0.00 because your expected contribution exceeds the cost of the second lowest cost silver plan in your county.

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 \$55,368.00 is 279.18% of the 2014 FPL, the Marketplace correctly found you to be ineligible for cost sharing reductions.

Since the January 17, 2015 eligibility determination properly stated that you were eligible for an APTC of \$0.00 per month and not eligible for cost sharing reductions, it is correct and is AFFIRMED.

The second issue is whether the Marketplace properly determined that your coverage start date with Fidelis Care Bronze was March 1, 2015.

On January 21, 2015, the Marketplace issued an enrollment confirmation notice that if you pay your first month's premium, your coverage with Fidelis Care Bronze could start as early as March 1, 2015.

The Marketplace guarantees a coverage effective date of March 1, 2015 for any enrollee who selects a plan between January 16, 2015 and February 15, 2015.

You testified and the record reflects, that on January 20, 2015, you disenrolled from EssentialCare Gold and reenrolled in to Fidelis Care Bronze with a premium responsibility of \$308.15. Therefore, the Marketplace properly determined that your enrollment in Fidelis Care Bronze, with a premium amount of \$308.15 was effective March 1, 2015.

Decision

The January 17, 2015 eligibility determination is AFFIRMED.

The January 21, 2015 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: August 14, 2015

How this Decision Affects Your Eligibility

You were eligible for \$0.00 per month in APTC for the month of February. Your enrollment with Fidelis Care Bronze was effective March 1, 2015.

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).

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 after the date 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 date 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 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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 17, 2015 eligibility determination is AFFIRMED.

The January 21, 2015 enrollment confirmation notice is AFFIRMED.

You were eligible for \$0.00 per month in advance premium tax credit for the month of February.

Your enrollment with Fidelis Care Bronze was effective March 1, 2015.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

