



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

Notice of Decision

Decision Date: July 3, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000581

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 2, 2014, you appeared at a hearing on your appeal of NY State of Health Marketplace's April 15, 2014 preliminary eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

Legal Authority

We are sending you this notice in accordance with Federal regulation 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).

This page intentionally left blank.



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

Decision

Decision Date: July 3, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000581

[REDACTED]
[REDACTED]
[REDACTED]

Issue

The issue presented for review by the Appeals Unit of the NY State of Health is:

Did the Marketplace properly determine that the appellant was not eligible for an advance premium tax credit (APTC) as of April 15, 2014?

Procedural History

The appellant initially applied for health insurance through the Marketplace on March 31, 2014. There were two preliminary eligibility determinations on that day. The first found that the appellant was not eligible for APTC, based on an application that stated that the appellant was separated, but filing as married filing separately. The second determination found that the appellant was eligible to enroll in a qualified health plan (QHP) and, with an attested household income of \$20,000.00, was entitled to up to \$280.00 per month in APTC. She was also entitled to cost sharing reductions (CSR).

An eligibility notice dated April 1, 2014, reflected the findings in the second preliminary eligibility determination.

On April 15, 2014, the appellant's marital status was changed to separated, and her eligibility was rerun. On that day, the appellant received an online preliminary eligibility determination that stated that she was not eligible for assistance to pay for her health insurance coverage.

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).

On April 15, 2014, the appellant called the Marketplace's Customer Service unit and was told that she was not eligible for assistance because she was married, but was not filing her taxes as married filing jointly. The appellant appealed her preliminary determination that day.

On June 2, 2014, the appellant had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing. The record was left open for 15 days to give appellant time to submit income documentation. No documentation was received within the allotted time frame. The record is now closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) The appellant resides in a one-person household. She has no dependents and resides with another person who is neither her spouse nor her child.
- 2) The appellant is currently married but has not lived with her spouse for approximately 15 years.
- 3) The appellant does not plan on filing her taxes as married filing jointly for the 2014 tax year.
- 4) The appellant has not obtained a legal separation or decree from her spouse.
- 5) The appellant testified that her gross annual income is between \$15,000 and \$17,000. This variation is because she is a student and works part-time.
- 6) The appellant's application states that her gross income is \$20,000.

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

Applicable Law and Regulations

A taxpayer who is married must file a joint return with his or her spouse to be eligible for premium tax credits (26 CFR § 1.36B-2(b)(2)).

However, an individual will be treated as not married at the close of the taxable year if the individual

1. Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
2. Meets all of the following criteria:
 - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
 - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. his/her spouse is not a member of the household during the last 6 months of the taxable year (26 USC § 7703(a); 26 USC § 7703(b)).

Legal Analysis

As noted above, in order to qualify for an advance premium tax credit, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the documents in the record and your testimony at the hearing, you

- are still married to your spouse,
- are not divorced or legally separated from your spouse,
- do not plan to file a joint tax return with your spouse for the 2014 tax year, and
- do not have a qualifying child.

The record does not support a finding that you qualify to be treated as “not married” for purposes of this Decision.

Therefore, you are not eligible for an advance premium tax credit.

Decision

The Marketplace’s preliminary eligibility determination made on April 15, 2014, is **AFFIRMED**.

Effective Date of this Decision: July 3, 2014

How this Decision Affects Your Eligibility

As of April 15, 2014, you are not eligible for an advance premium tax credit.

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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

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 for assistance.

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

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).

Summary

The April 15, 2014 preliminary eligibility determination is AFFIRMED.

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:

[REDACTED]
[REDACTED]
[REDACTED]