



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

Notice of Decision

Decision Date: July 28, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000604

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 2, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 24, 2014 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 notice.

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 28, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000604

[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 [REDACTED] is not eligible for advance premium tax credits (APTC) as of April 24, 2014?

Procedural History

The Marketplace received your application for health insurance on April 24, 2014.

On April 24, 2014, the Marketplace issued an eligibility determination on your case. It said that you were eligible to enroll in a qualified health plan (QHP) but not eligible to receive tax credits to help pay for the cost of insurance because your citizenship status had not been verified and because you are not a joint tax filer.

On April 24, 2014, you spoke with the Marketplace's Customer Service Unit and appealed that determination.

On June 2, 2014, you had a telephone 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:

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).

- 1) You are currently married.
- 2) You have been separated from your spouse for four years.
- 3) You have not obtained a legal separation but are in the process of doing this. You expect to be legally separated by the end of 2014. You also hope to be divorced by the end of 2014; however, you have been unable to obtain a divorce to date because your spouse refuses to give consent.
- 4) You have one child, but do not expect to claim the child as a dependent because the child lives with your spouse. Your spouse expects to claim the child as a dependent.
- 5) You do not expect to claim anyone as a tax dependent for the 2014 tax year.
- 6) You expect to make an average of \$1,400.00 per month for the 2014 tax year. You testified that your income fluctuates between \$1,200.00 and \$1,600.00 per month but will average about \$1,400.00 per month. You expect to make \$16,800.00 for the 2014 tax year.
- 7) You pay your spouse \$546.00 in child support payments every month per court order.

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

Applicable Law and Regulations

The applicable Federal rules for APTC eligibility are 45 CFR § 155.310(d) and 26 CFR § 1.36B-2.

In general, a taxpayer who is married must file a joint return with his/her spouse to be eligible for premium tax credits (45 CFR § 155.305(f); 26 CFR § 1.36B-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 the following criteria:

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).

- a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child; and
- 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 six months of the taxable year.

Legal Analysis

To qualify for advance premium tax credits (APTC), an individual who is married must either file jointly with his spouse (45 CFR § 155.305(f)) or qualify as “not married” at the close of the tax year.

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

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

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.

Since you are not eligible for an advance premium tax credit on the basis of your tax filing status, and since that fully resolves the question of your eligibility, this decision does not reach the issue of your citizenship status.

The April 24, 2014 eligibility determination is correct and so must be AFFIRMED.

Decision

The April 24, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 28, 2014

How this Decision Affects Your Eligibility

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).

You are not eligible to receive advance premium tax credits (APTC) due to your current tax filing status.

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).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]