



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

Notice of Decision

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000632

Decision Date: August 29, 2014

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On June 17, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 27, 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).

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Decision

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Appeal Identification Number: AP000000000632

Decision Date: August 29, 2014

[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] was eligible for an advance premium tax credit (APTC) in the amount of \$141.00 per month as of March 27, 2014?

Procedural History

On January 13, 2014, and January 30, 2013, you applied for health insurance through the Marketplace with the marital status of "married" and tax filing status of "married filing single."

On January 14, 2014, and January 31, 2014, the Marketplace issued eligibility determinations that you are eligible to enroll in a Qualified Health Plan (QHP) but not eligible for tax credits because you are not a Joint Tax Filer.

On March 13, 2014, you modified your marital and tax filing status to "single" on your health insurance application.

On March 27, 2014, the Marketplace issued an eligibility determination that, with a household of one person and expected income of \$32,000.00, you are eligible to enroll in a QHP and receive up to \$141.00 of APTC.

On May 8, 2014, you appealed that determination.

On June 17, 2014, you appeared for a telephone hearing. Testimony was taken at the hearing. The record was held open until June 20, 2014, to allow you to submit documentation.

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On June 19, 2014, you submitted your 2013 federal income tax return. The evidence was made part of the record, and the record was closed. The record is now complete and closed.

Findings of Fact

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

1. On January 13, 2014, you applied for health insurance through the Marketplace with the marital status of “married” and tax filing status of “married filing single.”
2. On March 13, 2014, you modified your marital and tax filing status to “single” on your health insurance application.
3. You testified that you are currently married.
4. You testified that you have not obtained a legal separation from your spouse.
5. You testified that you have not resided with your spouse since July 2012.
6. You testified that you currently reside with your 20-year-old son and pay for more than one half of the cost of keeping up your home.
7. You filed your 2013 federal income tax return with the tax status of head of household and claimed no dependents. You testified that you plan on filing your 2014 federal income tax return with the same tax status and exemptions as 2013.

Conflicting evidence, if any, is considered less credible than the evidence noted above.

Applicable Law and Regulations

A tax filer is eligible for an advance premium tax credit (APTC) if (1) the tax filer is expected to have a household income of at least 100% but not more than 400% of the Federal Poverty Level (FPL), and (2) the tax filer expects to claim a personal exemption deduction on his or her tax return for an applicant who meets the eligibility requirements to enroll in a qualified health plan and is not eligible for minimum essential coverage except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR 1.36B-2).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

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However, a tax filer will be treated as “not married” at the close of the taxable year if the tax filer

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. taxpayer files a separate return from his/her spouse, maintains his/her household as the primary home for a qualifying child to whom the taxpayer is entitled to a deduction for the taxable year; and
 - b. taxpayer pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. taxpayer’s 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

The record shows that on March 13, 2014, you modified your health insurance application through the NY State of Health. You changed your marital status from “married” to “single.” However, you testified at the hearing that you have not obtained a legal separation from your spouse.

In general, to qualify for an advanced 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, 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.

You testified that you plan on filing your 2014 federal income tax return with the same tax status and exemptions as 2013. The record lacks sufficient facts to support a finding that you will be able to claim a deduction for your child on your 2014 federal income tax return.

Therefore, the record does not support a finding that you qualify to be treated as “not married” for purposes of this Decision. You are not eligible for an advance premium tax credit at this time.

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However, if you get a decree of legal separation by the end of this tax year, or demonstrate that your son is a qualifying child whom you are entitled to take a tax deduction for, you may be entitled to claim tax credits on your federal tax return to offset a portion of the premiums you paid for health insurance you purchased through the Marketplace this year.

Decision

The March 27, 2014 eligibility determination is RESCINDED.

The case is REMANDED for redetermination of your eligibility as of March 27, 2014, with a marital status of married and a tax filing status of “filing separately.”

Effective Date of this Decision: March 27, 2014

How this Decision Affects Eligibility

The March 27, 2014 eligibility redetermination is RESCINDED and is without effect.

The Marketplace will redetermine your eligibility with a marital status of “married” and a tax filing status of “filing separately” and issue a notice of redetermination.

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:

- Submit 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 this Decision (45 CFR § 155.520(c))

AND/OR

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

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 March 27, 2014 eligibility determination is RESCINDED.

The case is REMANDED for redetermination of your eligibility as of March 27, 2014 with a marital status of married and a tax filing status of “filing separately.”

The Marketplace will redetermine your eligibility and issue a notice of redetermination.

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]