



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: AP000000000647

Decision Date: October 1, 2014

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 16, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 12, 2014 eligibility determination.

The attached 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).

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[REDACTED]
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Issue

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

Did the Marketplace properly determine that [REDACTED] is not eligible for advance premium tax credit (APTC) as of April 12, 2014?

Procedural History

On March 17, 2014, you filed an application for health insurance through the Marketplace for yourself only.

On March 18, 2014, the Marketplace issued an eligibility determination notice. The notice states that, with a household income of \$20,280.00, you are eligible to enroll in a qualified health plan (QHP). However, you are not eligible to receive advance premium tax credit (APTC) because you are married but not a Joint Tax Filer.

On April 7, 2014, you reapplied for health insurance through the Marketplace.

On April 12, 2014, the Marketplace issued an eligibility determination notice. The notice states that based on a household income of \$20,280.00, you are eligible to enroll in a qualified health plan (QHP). However, you are not eligible to receive advance premium tax credit (APTC) because you are married but not a Joint Tax Filer.

On May 14, 2014, you appealed the Marketplace’s April 12, 2014 eligibility determination.

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 June 16, 2014, you had a telephone hearing. Testimony was taken at the hearing with the assistance of a Spanish interpreter [REDACTED]

The record was developed during the hearing and is now complete and closed.

Findings of Fact

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

1. You currently are married.
2. You have not obtained a legal separation from your spouse.
3. You plan to file a 2014 federal income tax return with the tax status married filing separately and claim no dependents.
4. You have not resided with your spouse since approximately January 2014.
5. You have paid for more than half of the cost of keeping up your home.
6. You currently reside in Rockland county.

Conflicting evidence, if any, was considered and found to be 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% percent 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).

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 and maintains his/her household as the primary home for a qualifying child; 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

In the eligibility determination issued April 12, 2014, the Marketplace denied advance premium tax credit (APTC) to you because you indicated that you were married but did not plan to file a joint federal income tax return.

According to the documents in the record and your testimony at the hearing, you are still married and have not obtained a decree of divorce or of separate maintenance. Also, you confirmed that you do not plan to file a joint federal income tax return with your spouse for the 2014 tax year.

There is an exception, as noted above, that allows a tax filer to be treated as "not married" at the close of a taxable year, making the tax filer eligible for APTC. However, the record does not support a finding, at this time, that you meet the requirements for that exception.

Therefore, the Marketplace was correct when it found that you were not eligible for APTC due to your tax filing status.

Decision

The April 12, 2014, eligibility determination is **AFFIRMED**.

Effective Date of this Decision: October 1, 2014

How this Decision Affects Eligibility

You are eligible to enroll in a qualified health plan through the Marketplace without financial assistance.

You are not eligible for 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:

- 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

- 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
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Summary

The April 12, 2014, eligibility determination is AFFIRMED.

You are eligible to enroll in a qualified health plan through the Marketplace without financial assistance.

You are not eligible for advance premium tax credit.

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]
[REDACTED]