



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

Notice of Decision

Decision Date: November 10, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000793

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 9, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 1, 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000793

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that you were eligible to enroll in a qualified health plan through the Marketplace but not eligible for an advance premium tax credit as of August 1, 2014?

Procedural History

On January 1, 2014, you initially filed an application for health insurance through the Marketplace.

On January 2, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible to enroll in a qualified health plan (QHP) but not eligible for tax credits because you were receiving public health insurance that provided minimum essential coverage.

On January 4, 2014 and January 28, 2014, you reapplied for health insurance through the Marketplace with expected annual incomes of \$17,836.00 and \$17,000.00. The Marketplace prepared preliminary determinations stating that in order for your eligibility to be determined, you must submit documents to confirm the accuracy of the income information in your application.

On March 9, 2014, you reapplied for health insurance through the Marketplace. The Marketplace prepared two preliminary determinations: One stated that you were not eligible for financial assistance, and one stated that you were eligible for up to \$290.00 per month of advance premium tax credit (APTC) and eligible for cost-sharing reductions.

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On March 10, 2014, the Marketplace issued a notice of eligibility determination stating that based on a household income of \$18,000.00, you are eligible to enroll in a QHP and eligible to receive up to \$290.00 monthly of APTC, and cost-sharing reductions (CSR). A section of the notice entitled “Important Information about Your Health Insurance” says “you are obligated to report to New York State of Health any changes that would affect your eligibility for enrollment in the qualified health plan, advance premium tax credits and cost-sharing reductions within 30 days of such a change” and explains that this includes changes in “eligibility for health insurance from a job” and becoming “qualified for other health insurance.”

On August 1, 2014, the Marketplace issued a notice of eligibility determination stating that you are eligible to enroll in a qualified health plan through the Marketplace without financial assistance. It explained that you were not eligible for tax credit to help pay the cost of insurance because the waiting period for your ESI (employer-sponsored insurance) was over.

On August 6, 2014, you spoke to the Marketplace Customer Service unit and appealed that eligibility determination.

On September 9, 2014, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was held open until September 24, 2014, or until you submitted health insurance benefit information from [REDACTED] Human Resources department, whichever occurs first.

On September 19, 2014, you submitted the 2014 Benefits Program Guide for [REDACTED]. The evidence was made part of the record, and the record was closed as of September 19, 2014. The record is now complete and closed.

Findings of Fact

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

1. You reapplied for health insurance through the NY State of Health Marketplace on March 9, 2014.
2. You testified that you are currently employed at [REDACTED] and have been employed there for approximately five years.
3. According to your March 9, 2014 Marketplace application, you are qualified to enroll in health insurance through [REDACTED].
4. You testified that [REDACTED] offers open enrollment periods in the months of June and February.

5. On September 19, 2014, you submitted the 2014 Benefits Program Guide for [REDACTED] employees. The Guide indicates that annual open enrollment for employees is May 22, 2014 through June 10, 2014 for the 2014 plan year (July 1, 2014-June 30, 2015) (Appellant Exhibit A).

6. You testified that you did not believe you had to enroll in health insurance offered through [REDACTED] because you were enrolled in coverage through the Marketplace as of April 1, 2014.

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

Applicable Law and Regulations

Generally, to be eligible to claim advance premium tax credit (APTC), a taxpayer must not be eligible for minimum essential coverage, except for coverage in the individual marketplace (45 § CFR 155.305(f)(ii)(B)).

Minimum essential coverage is defined in federal law USC § 5000A(f) and the regulations issued under that section. As described under that section, government-sponsored programs, eligible employer-sponsored plans, grandfathered health plans, and certain other health benefits coverage are minimum essential coverage (26 § CFR 1.36B-2(c)(1)).

An employee who may enroll in an eligible employer-sponsored plan and an individual who may enroll in the plan because of a relationship to the employee (a related individual) are eligible for minimum essential coverage (26 § CFR 1.36B-2(c)(3)(i)).

An employee or related individual may be eligible for minimum essential coverage under an eligible employer-sponsored plan for a month during a plan year if the employee or related individual could have enrolled in the plan for that month during an open or special enrollment period (26 § CFR 1.36B-2(c)(3)(iii)).

Legal Analysis

The only issue on appeal is whether you are eligible for advance premium tax credit (APTC) based on your access to employer-sponsored coverage.

On March 9, 2014, you reapplied for health insurance through the Marketplace. Your application indicated that you were qualified to enroll in health insurance through [REDACTED]

On March 10, 2014, the Marketplace issued a notice of eligibility determination stating that, with a household income of \$18,000.00, you were eligible to enroll in

a qualified health plan (QHP) and eligible to receive up to \$290.00 monthly of APTC and eligible for cost-sharing reductions (CSR).

At the hearing you testified that you were currently employed at [REDACTED] and have been employed there for five years. You testified that [REDACTED] employee open enrollment for health insurance is in the months of June and February. You submitted the 2014 Benefits Program Guide for [REDACTED] employees. The Guide indicates that annual open enrollment for employees is May 22, 2014 through June 10, 2014 for the 2014 plan year (July 1, 2014-June 30, 2015).

Since [REDACTED] open-enrollment period was not in effect when you submitted your application on March 9, 2014, you were eligible to enroll in a QHP and eligible for APTC at that point. Therefore, the March 10, 2014 notice of eligibility determination was correct when it was issued.

The March 10, 2014 notice advised you that “you are obligated to report to New York State of Health any changes that would affect your eligibility for enrollment in the qualified health plan, advance premium tax credits and cost-sharing reductions within 30 days of such a change.” Examples of such changes included becoming qualified for other health insurance or having a change in your eligibility for health insurance from a job.

You testified that you did not believe you had to enroll in health insurance offered through [REDACTED] because you were enrolled in coverage through the Marketplace as of April 1, 2014.

According to the record, you were eligible to enroll in [REDACTED] employer-sponsored health insurance during an open-enrollment period that extended from May 22, 2014 through June 10, 2014. Coverage obtained during that period would take effect on July 1, 2014. Since the employer-sponsored health insurance offered through [REDACTED] is minimum essential coverage, you became ineligible to receive APTC as of July 1, 2014.

Since, as of on July 1, 2014 you were not eligible for tax credits to help pay the cost of your health insurance through the Marketplace, the August 1, 2014 notice of eligibility determination is correct and is AFFIRMED.

Decision

The August 1, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 10, 2014

How this Decision Affects Eligibility

This decision does not change your eligibility.

You remain eligible to enroll in a qualified health plan (QHP) but ineligible for financial assistance as of July 1, 2014.

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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The August 1, 2014 eligibility determination is AFFIMRED.

This decision does not change your eligibility.

You remain eligible to enroll in a qualified health plan (QHP) but ineligible for financial assistance as of July 1, 2014.

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]