



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

Notice of Decision

Decision Date: January 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000983

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

Dear [REDACTED],

On October 6, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 6, 2014, eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of 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 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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[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that [REDACTED]
[REDACTED] are not eligible for advance premium tax credit as of September
6, 2014?

Procedural History

On August 7, 2014, the Marketplace received your initial application for health insurance through the Marketplace.

On August 8, 2014, the Marketplace issued a notice of eligibility determination that states that [REDACTED] may be eligible for health insurance through New York State of Health but that more information is needed to make a determination.

On September 2, 2014, you reapplied for health insurance through the Marketplace.

On September 3, 2014, the Marketplace issued a notice of eligibility determination that states that [REDACTED] may be eligible for health insurance through New York State of Health but more information is needed to make a determination.

On September 5, 2014, you uploaded income documentation through the Marketplace portal.

On September 6, 2014, the Marketplace issued an eligibility determination notice stating that [REDACTED] are eligible to enroll in a qualified health plan but not eligible to receive tax credits because you are married but not filing taxes jointly. It also states that you are not eligible for Medicaid because your household income is over the income limit for that program.

On September 12, 2014, you spoke to the Marketplace's Account Review Unit and appealed the determination insofar as it denied you advance premium tax credit and cost-sharing reductions.

On October 6, 2014, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. 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. You are currently 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 of married filing separately and claim no dependents.
4. You currently reside with your spouse.
5. You pay for more than half of the cost of keeping up your home.
6. According to your Marketplace application, you reside in New York county, New York.

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

Applicable Law and Regulations

Advance Premium Tax Credit

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

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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)).

Cost-Sharing Reductions

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a qualified health plan through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level qualified health plan (45 CFR § 155.305(g)(1)).

Legal Analysis

In the eligibility determination notice issued on September 6, 2014, the Marketplace denied an 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 to your spouse and have not obtained a decree of divorce or of

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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 that you meet the necessary 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.

Cost-sharing reductions are available only to those who meet the requirements for APTC. Since you did not qualify for APTC, the Marketplace correctly found that you were not eligible for cost-sharing reductions.

Decision

The September 6, 2014, eligibility determination is AFFIRMED.

Effective Date of this Decision: January 15, 2015

How this Decision Affects Eligibility

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

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.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be

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done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

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:
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- By fax: 1-855-900-5557

Summary

The September 6, 2014, eligibility determination is AFFIRMED.

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

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]