



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

Notice of Decision

Decision Date: April 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001183

[REDACTED]
[REDACTED]
[REDACTED]

Dear Ms. [REDACTED],

On January 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 5, 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 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).

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Issues

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

Did the Marketplace properly determine that you were eligible for an advance premium tax credit up to \$9.00 per month as of December 4, 2014?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions as of December 4, 2014?

Procedural History

On November 3, 2014, you received a notice from the Marketplace stating the New York State of Health had re-enrolled you in your current plan for 2015.

On November 16, 2014, you reapplied for health insurance through the Marketplace. The Marketplace made a preliminary determination that you were eligible to enroll in a qualified health plan (QHP) with an advance premium tax credit (APTC) of up to \$182.00 monthly.

On November 25, 2014, you reapplied for health insurance through the Marketplace.

On November 27, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible to enroll in a QHP with APTC up to \$182.00 monthly. However, you were not eligible for cost-sharing reductions and Medicaid because your household income was over the allowable limit.

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On December 3, 2014, you modified your health insurance application.

On December 4, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible to enroll in a QHP with APTC of up to \$9.00 monthly. However, you were not eligible for cost-sharing reductions and Medicaid because your household income was over the allowable limit.

On that same day, you reapplied for health insurance through the Marketplace.

On December 5, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible to enroll in a QHP with APTC of up to \$9.00 monthly. However, you are not eligible for cost-sharing reductions and Medicaid because your household income was over the allowable limit.

On December 13, 2014, you spoke to the Marketplace Account Review Unit and appealed that determination.

On January 8, 2015, 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:

1. You testified that you are applying for health insurance through the Marketplace for yourself only.
2. You testified that you are married and your spouse has health insurance coverage through Medicare.
3. You plan on filing a 2015 federal income tax return with the tax status of married filing jointly and will not claim any dependents on that return.
4. You testified that you have been retired since December 2013.
5. According to your December 5, 2014 Marketplace application, your expected 2015 household income is \$40,266.48.
6. You testified that during 2015 you expect to receive \$1,560.00 in pension benefits and receive \$13,200.00 in Social Security benefits.
7. You testified that your spouse is retired.

8. You testified that during 2015 your spouse expects to receive \$16,459.20 in Social Security benefits and \$9,047.28 in pension benefits.
9. You reside in Cayuga 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:

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2014 federal poverty level (FPL); (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan (QHP); and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through the NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2015 is set at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% of the

household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)), IRS Rev. Proc. 2014-37).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their income tax form). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP 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 QHP (45 CFR § 155.305(g)(1)).

Legal Analysis

The only issues are whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$9.00 per month and not eligible for cost-sharing reductions.

In the application that was submitted on December 4, 2014, you attested to a 2015 expected household income of \$40,266.48, and the eligibility determination relied upon that information.

According to the record, you plan to file your 2015 federal income tax return with the tax status of married filing jointly and claim no dependents on that return. Therefore, the record indicates that you are in a tax household of two people. However, you testified that you are only applying for health insurance through the Marketplace because your spouse has health insurance through the Medicare program.

You reside in Cayuga County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$285.13 per month.

An annual income of \$40,266.48 is 255.99% of the 2014 federal poverty level (FPL) for a two-person tax household. At 255.99% of the FPL, the expected contribution to the cost of the health insurance premium is 8.27% of income, or \$277.49 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$285.13 per month) minus your expected contribution (\$277.49 per month), which equals \$7.63 per month. Therefore, the Marketplace correctly determined your eligibility for APTC up to \$9.00 per month.

The second issue is whether the Marketplace properly determined that you were eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$40,226.48 is 255.99% of the 2014 FPL, the Marketplace correctly found you to be not eligible for cost-sharing reductions.

Since the December 4, 2014, eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$9.00 per month and not eligible for cost-sharing reductions, it is correct and is **AFFIRMED**.

At the end of the tax year, people who are entitled to a premium tax credit reconcile that credit on their federal income tax return. If you should have received a tax credit different than the \$9.00 based on the second lowest cost silver plan in Cayuga County, you may claim that tax credit when you file your 2015 income tax return.

Decision

The December 5, 2014 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: April 8, 2015

How this Decision Affects Your Eligibility

The December 5, 2014, eligibility determination is correct, so it remains in effect.

You are eligible for an advance premium tax credit of up to \$9.00 per month and not eligible for cost-sharing reductions.

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 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
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 5, 2014 eligibility determination is **AFFIRMED**.

You are eligible for an advance premium tax credit of up to \$9.00 per month and not eligible for cost-sharing reductions.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]