



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: AP000000001184

[REDACTED]
[REDACTED]
[REDACTED]

Dear Ms. [REDACTED],

On January 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 9, 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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Appeal Identification Number: AP000000001184

[REDACTED]
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Issue

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

Did the Marketplace properly determine that you were eligible for up to \$82.00 per month in advance premium tax credit as of December 9, 2014?

Procedural History

The Marketplace received your initial 2015 application for health insurance on November 16, 2014.

On December 8, 2014, the Marketplace received your modified application for health insurance.

On December 9, 2014, the Marketplace issued a notice detailing your eligibility determination. That notice stated that you were eligible to receive up to \$82.00 per month in advance premium tax credit, which can be applied all or in part to your monthly premium when you enroll in a qualified health plan. This determination was made based on a household income of \$36,710.00.

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

On January 6, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was closed at the end of the hearing.

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Findings of Fact

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

- 1) You testified that you expect to file your 2015 tax return as Single and you do not expect to claim anyone as a dependent for the 2015 tax year.
- 2) According to the record and your testimony, you work three different jobs, and the number of hours you work varies each week. You expect to earn a total of \$36,710.00 before taxes during 2015 from these jobs.
- 3) You currently reside in Rockland County, New York.

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

Applicable Law and Regulations

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan (QHP) 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 is set by federal law at 2.01% to 9.56% of annual household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 250% but less than 300% of the FPL, the expected contribution is between 8.10% and 9.56% of the household income for 2014 (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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 \$11,670.00 for a one-person household (78 Fed. Reg. 5182, 5183).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax credit or refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The only issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$82.00 per month.

In the application that was submitted on December 8, 2014, you attested to an expected yearly income of \$36,710.00. The eligibility determination issued on December 9, 2014 relied upon that information.

According to the record and your testimony, you are the only person in your tax household.

You reside in Rockland County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$372.40 per month.

An annual income of \$36,710.00 is 314.57% of the 2014 federal poverty level (FPL) for a one-person household. At 314.57% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$292.46 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 (\$372.40 per month) minus your expected contribution (\$292.46 per month), which equals \$79.94 per month. Computing to the nearest dollar, you are eligible for up to \$80.00 per month in APTC; therefore, the Marketplace overstated your APTC by \$2.00 per month.

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Since the \$2.00 per month discrepancy between your actual and computed APTC provided to date is minimal and is based on expected earnings, it is appropriately reconciled when you file a federal tax return on your actual 2015 earnings. Therefore the December 9, 2014 eligibility determination can be AFFIRMED.

However, your case is returned to the Marketplace for redetermination of your eligibility based on a one-person household in Rockland County with an expected 2015 income of \$36,710.00.

Decision

The December 9, 2014 eligibility determination is AFFIRMED.

Your case is returned to the Marketplace for redetermination of your eligibility based on a one-person household in Rockland County with an expected 2015 income of \$36,710.00.

Effective Date of this Decision: April 8, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility to enroll in a qualified health plan.

You remain eligible to receive an advance premium tax credit; however, the Marketplace is directed to redetermine your eligibility based on a one-person household in Rockland County with an expected 2015 income of \$36,710.00.

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

Summary

The December 9, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility to enroll in a qualified health plan.

The Marketplace is directed to redetermine your eligibility based on a one-person household in Rockland County with an expected 2015 income of \$36,710.00.

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:

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██████████
██████████