



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

Notice of Decision

Decision Date: April 13, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001201

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 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]
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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 to receive an advance premium tax credit of up to \$306.04 per month as of November 5, 2014?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions as of November 5, 2014?

Procedural History

On November 6, 2014, the Marketplace issued a notice stating that, according to federal and state data sources, during 2015 you qualified for an advance premium tax credit of up to \$306.04 per month and if you enrolled in a silver level plan through the Marketplace, for cost-sharing reductions.

On December 16, 2014, you spoke with the Marketplace's Account Review Unit and appealed that eligibility determination.

On January 8, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit, with the assistance of [REDACTED]. The record was developed during the hearing and the record was left open for 15 days to allow you the opportunity to submit additional evidence. As of the close of the business day on January 23, 2015, no documentation had been submitted to the Marketplace, and the record was closed.

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Findings of Fact

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

- 1) In your application, you stated that you are single.
- 2) You testified that you plan on filing your 2015 tax return as single and will claim no dependents on that tax return.
- 3) You testified that you do not plan on taking any deductions on your 2015 tax return.
- 4) You testified that you expect to make \$17,600.00 during 2015.
- 5) You testified that you are making the same amount this year as you made last year; however you are going to pay more for health insurance this year because the cost of your insurance premium has increased.
- 6) You testified that you reside in Queens 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 (QHP) and (1) expects to have a household income between 138% and 400% of the applicable 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 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 NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

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(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 by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1)), 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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Cost-Sharing Reductions

Cost-sharing reductions 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 first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$306.04 per month.

You testified that you estimate that you will receive \$17,600.00 in income for the 2015 tax year.

You plan to file your 2015 federal tax return as single and claim no dependents. Therefore, you are in a one-person household.

You reside in Queens County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$17,600.00 is 150.81% of the 2014 FPL for a one-person household. At 150.81% of the FPL, the expected contribution to the cost of the health insurance premium is 4.06% of income, or \$59.55 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 (\$371.75 per month) minus your expected contribution (\$59.55 per month) which equals \$312.20 per month.

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 \$17,600.00 is 150.81% of the 2014 FPL, the Marketplace correctly found you eligible for cost-sharing reductions.

Since the record does not indicate the income level used to calculate the amount of your APTC, and since the record has now been developed with credible evidence that your expected 2015 household income is \$17,600.00, which would result in a different APTC than was approved, the November 6, 2014 eligibility determination is RESCINDED.

Decision

The November 6, 2014 eligibility determination is RESCINDED.

Your case is REMANDED to the Marketplace for a determination of your eligibility for financial assistance based on a one-person household in Queens County with an expected 2015 income of \$17,600.00.

Effective Date of this Decision: April 13, 2015

How this Decision Affects Your Eligibility

This decision is not a final determination of your eligibility.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for health insurance based on a one-person household in Queens County with an expected annual income of \$17,600.00.

Once a redetermination has been made, the Marketplace will issue a notice with additional information.

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

Summary

The November 6, 2014 eligibility determination is **RESCINDED**.

Your case is **REMANDED** to the Marketplace for redetermination of your eligibility for health insurance based on a one-person household in Queens County with an expected 2015 income of \$17,600.00.

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Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]