



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

Notice of Decision

Decision Date: April 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001296

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 31, 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).

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Decision

Decision Date: April 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001296

[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 as of December 30, 2014, you were eligible to receive up to \$202.00 per month in advance premium tax credit?

Procedural History

The Marketplace first received your application for health insurance on December 30, 2014. That day the Marketplace prepared a preliminary eligibility determination in your case that stated you were eligible for \$202.00 in advance premium tax credit (APTC) and for cost-sharing reductions (CSR).

Also on December 30, 2014, you spoke with the Marketplace's Account Review Unit and appealed that preliminary eligibility determination.

On December 31, 2014, the Marketplace issued a notice of eligibility determination stating that you were eligible for \$202.00 in APTC and, if you enrolled in a silver level health plan, for CSR.

On February 3, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you to submit evidence of your monthly income and your business expense deduction, as directed by the Hearing Officer. No evidence was received within that timeframe. The record is now closed.

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Findings of Fact

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

- 1) Your application states that you expect to file your 2015 tax return as single and claim three children and one adult (your mother) as dependents on your tax return.
- 2) You testified that you expect to file your 2015 tax return as single, but that you think you will only claim one of your children as a dependent because there is a divorce decree that states your ex-spouse will claim the other two children. You further testified that you will not be claiming your mother as a dependent on your 2015 tax return.
- 3) Your application lists a 2015 expected household income of \$45,744.00. This amount includes your mother's Social Security Benefits of \$7,944.00 and your expected annual income of \$37,800.00.
- 4) You testified that the income you listed for yourself in your Marketplace application is based on your 2013 income tax return.
- 5) You testified that the only income you expect to receive for the 2015 tax year is from your business with [REDACTED] in the amount of \$30,000.00. You also testified that amount is lower than the figure given on your application because your job description has changed.
- 6) You testified that you plan to take a business expense deduction on your 2015 tax return, but are not certain of the amount. You think it might be around \$10,000.00 because that is the amount you claimed in the past.
- 7) You testified that you reside in Nassau 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

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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

(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 the 2015 tax year is set by federal law at 2.01% to 9.56% of annual household income (26 USC § 36B(b)(3)(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 \$27,910.00 for a five-person household (78 Fed. Reg. 5182, 5183). It is \$15,730.00 for a two-person household.

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution for the 2015 tax year is between 4.02% and 6.34% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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)).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or

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residents living abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a trade or business may be deductions from a taxpayers adjusted gross income (26 USC § 62 (a)(1)).

Household Composition

For purposes of determining eligibility for APTC and CSR, the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(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 \$202.00 per month as of your December 30, 2014 application.

In the application that was submitted on December 30, 2014, you attested to a 2015 expected household income of \$45,744.00. This amount included your mother’s Social Security Benefits of \$7,944.00 and your expected annual income of \$37,800.00. The notice of eligibility determination issued on December 31, 2014 relied upon that information.

In the application that was submitted on December 30, 2014, you attested that your tax filing status was single and that you expected to claim four dependents on your tax return. This made you a member of a five-person household.

You reside in Nassau County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$379.93 per month.

An annual income of \$45,744.00 is 163.90% of the 2014 federal poverty level (FPL) for a five-person household. At 163.90% of the FPL, the expected contribution to the cost of the health insurance premium is 4.66% of income, or \$177.64 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 (\$379.93 per month) minus your expected contribution (\$177.64 per month), which equals \$202.29 per month. Therefore, rounding to the nearest

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dollar, the Marketplace correctly determined your APTC, based on your application, to be \$202.00 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 \$45,744.00 is 163.90% of the 2014 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

Therefore, based on the information that was contained in your Marketplace account at the time of your initial application, the December 31, 2014 eligibility determination is AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained in your application no longer reflects your anticipated tax household situation for 2015. You credibly testified that you expect to claim only one dependent on your tax return. This modified information indicates that you are in a two-person household for 2015.

Additional evidence provided on appeal also indicates that your income information should be updated. Since you no longer plan to claim your mother as a tax dependent, her income is not included in household income. Also, you testified that your job description has changed and that you expect to earn \$30,000.00 during 2015.

You also testified that you deduct business expenses on your tax returns. Generally, qualifying deductions can be subtracted from your household income to determine your modified adjusted gross income (MAGI). You did not testify to specific expected deductions or provide a copy of your Schedule C from previous tax years as directed. Thus the record as currently developed does not support deducting business expenses, or indicate how much could reasonably be deducted, when your MAGI-based income is determined.

You also testified that you believe your living expenses should be taken into account when determining your eligibility for health insurance. Since the Internal Revenue Service rules do not allow these expenses to be deducted from the calculation of your adjusted gross income, they also cannot be deducted when the Marketplace computes your MAGI for APTC purposes.

Therefore, your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance for health insurance based on a two-person household in Nassau County, with an annual expected income of \$30,000.00.

If you have obtained updated records regarding the amount of tax deductions you will take as a result of business expenses or if you will be claiming more than

one dependent on your 2015 tax return, please contact the Marketplace to update your application.

Decision

The December 31, 2014 eligibility determination is AFFIRMED.

Your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance for health insurance based on a two-person household in Nassau County, with an annual expected income of \$30,000.00.

Effective Date of this Decision: April 21, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

However, it does return your case to the Marketplace to redetermine your eligibility for financial assistance based on a two-person household in Nassau County, with expected annual earnings of \$30,000.00.

If you have obtained updated records regarding the amount of tax deductions you will take as a result of business expenses or if you will be claiming more than one dependent on your 2015 tax return, please contact the Marketplace to update your application

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))

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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 December 31, 2014 eligibility determination is AFFIRMED.

Your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance for health insurance based on a two-person household in Nassau County, with an annual expected income of \$30,000.00.

This decision does not change your eligibility.

However, it does return your case to the Marketplace to redetermine your eligibility for financial assistance based on a two-person household in Nassau County, with expected annual earnings of \$30,000.00.

If you have obtained updated records regarding the amount of tax deductions you will take as a result of business expenses or if you will be claiming more than one dependent on your 2015 tax return, please contact the Marketplace to update your application

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]