



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

Notice of Decision

Decision Date: April 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001318

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 13, 2014 eligibility redetermination.

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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Decision

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Appeal Identification Number: AP000000001318

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Issue

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

Did the Marketplace properly determine that you are eligible for \$0.00 monthly of advance premium tax credit effective January 1, 2015?

Procedural History

The Marketplace issued a notice on November 5, 2014 to advise you that you had been reenrolled in your 2014 health insurance plan for 2015. It also stated that you qualified for advance premium tax credits up to \$0.00 per month and were not eligible for cost-sharing reductions or Medicaid, because your household income you provided was over the allowable limit for these programs.

On December 12, 2014, the Marketplace prepared a preliminary eligibility redetermination, based on updated information, that you are eligible for an advance premium tax credit of \$0.00 per month effective January 1, 2015.

On December 13, 2014, the Marketplace issued a notice of eligibility redetermination that was consistent with the December 12, 2014 preliminary eligibility redetermination.

On December 31, 2014, you spoke with a representative in the Marketplace's Account Review Unit and appealed that eligibility redetermination insofar as it set your advance premium tax credit at \$0.00 per month.

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On February 6, 2015, a Hearing Officer from the Marketplace's Appeals Unit contacted you by telephone and conducted the hearing. The record was developed and closed at the end of the hearing.

Findings of Fact

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

- 1) You plan on filing your 2015 income tax return as single and will not be claiming any dependents on that tax return.
- 2) You reside in Onondaga County, New York.
- 3) According to your testimony and your Marketplace application, your household's expected adjusted gross income for 2015 is \$38,260.00.
- 4) You testified that you requested that the Marketplace cancel your 2015 coverage because the monthly premium was higher in 2015 than it was in 2014

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 2013 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

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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 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 300% but less than 400% of the 2014 FPL, the expected contribution in 2015 is 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The only issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of \$ 0.00 per month effective January 1, 2015.

According to your Marketplace application, your expected income for 2015 is \$38,260.00. The Marketplace relied on this information when determining your eligibility for financial assistance in 2015.

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

You reside in Onondaga County, where the second lowest cost silver plan available for an individual in 2015 through the Marketplace costs \$285.13 per month.

An annual income of \$38,260.00 is 327.85% of the 2014 federal poverty level (FPL) for a one-person household. At 327.85% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$304.81 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 2015 in your county (\$285.13 per month) minus your expected contribution (\$304.81 per month), which equals -\$19.68 per month. Since your expected contribution is higher than the cost of the second lowest cost silver plan, the Marketplace correctly determined that you are eligible for APTC of \$0.00 per month.

Since the December 13, 2014 notice of eligibility determination correctly stated that, effective January 1, 2015, you are eligible for APTC of \$0.00 per month, it is correct and is AFFIRMED.

You testified, however, that you cannot afford to pay the monthly insurance premium, even with tax credits, because it is not affordable on your income. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

Decision

The December 13, 2014 notice of eligibility redetermination is AFFIRMED.

Effective Date of this Decision: April 27, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit during 2015, but since your expected contribution is higher than the cost of the second lowest cost silver plan for an individual in your county, the maximum amount of advance premium tax credit that can be approved is \$0.00 per month.

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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 December 13, 2014 notice of eligibility redetermination is **AFFIRMED**.

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You remain eligible for an advance premium tax credit during 2015, but since your expected contribution is higher than the cost of the second lowest cost silver plan for an individual in your county, the maximum amount of advance premium tax credit that can be approved is \$0.00 per month.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for direction and an application.

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]