



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

Notice of Decision

Decision Date: June 12, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001342

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 27, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 20, 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 letter.

Legal Authority

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

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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 and your wife were eligible for an advance premium tax credit of up to \$620.76 per month and eligible for cost sharing reductions, as of November 20, 2014?

Procedural History

On November 7, 2014, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for 2015. That notice stated that based on federal and state data sources, your income is between \$32,913.00 and \$95,400.00, therefore you qualify to share a tax credit of up to \$620.76 per month. You also qualify for help in paying your share of out-of-pocket costs if you enroll in a silver level plan because federal and state data sources show your household income to be within the allowable income limit of \$59,625.00. It also stated that you and your wife were re-enrolled in the SilverPlus-S2, NS, INN, Dep25, Pediatric and Adult Dental, Adult and Pediatric Vision plan for another year and no further action is required.

On January 5, 2015, you spoke to the Marketplace’s Account Review Unit and appealed that determination insofar as it did not approve an advance premium tax credit of more than \$620.76 per month.

On January 27, 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 up to 15 days to give you an opportunity to submit supporting

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income documentation. The Marketplace's Appeals Unit did not receive your supporting documentation within the 15 day period and the record was closed on February 11, 2015.

Findings of Fact

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

- 1) You testified, and the record reflects, that you currently live with your wife and your two children.
- 2) You testified, and the record reflects, that you expect to file your 2015 tax return jointly with your spouse, and claim your two children as dependents.
- 3) You testified, and the record reflects, that you and your spouse are the only individuals in your household seeking insurance through New York State of Health.
- 4) You testified that you expect to earn approximately \$34,000.00 to \$36,000.00 during the 2015 tax year before taxes are deducted. You further testified that you earn \$12.80 per hour and work approximately 40 hours per week. However, you also testified that your income fluctuates depending on the number of hours you are able to work throughout the week.
- 5) You testified that you are paid weekly and earned \$747.20 on November 7, 2014; \$756.80 on November 14, 2015; \$804.80 on November 21, 2014; and \$809.60 on November 28, 2014 before taxes were deducted.
- 6) You testified that you do not expect to take any deductions for the 2015 tax year.
- 7) You testified, and the record reflects, 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

(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).

For annual household income in the range of at least 133% but less than 150% of the 2014 FPL, the expected contribution is between 3.02% and 4.02% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(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 renewal, that was the 2014 FPL, which is \$23,850.00 for a four-person household (79 Fed. Reg. 3593, 3593).

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

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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)).

Advance Premium Tax Credit Premium Assistance Program

Under the APTC Premium Assistance program, a parent or caretaker relative who filed taxes or plans to file federal taxes in the tax year for which eligibility is being determined, whose income is above 138% of the FPL but at or below 150% of the FPL, is eligible for payment of health insurance premiums for a silver-rated qualified health plan, after applying advance premium tax credits to the cost of the premiums (N.Y. Soc. Serv. Law § 367-a(3)(e), 13ADM-03 (III)(B)(1)(h))

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 \$620.76 per month.

You testified that you expect to earn between \$34,000.00 and \$36,000.00, or approximately \$35,000.00, for the 2015 tax year.

You testified and the record reflects that you plan on filing your taxes jointly with your spouse and claim your two children as dependents. Therefore, you are a household of four people.

You testified, and the record reflects, that you and your wife are the only individuals in your household seeking health insurance through New York State of Health.

You reside in Queens County, where the second lowest cost silver plan available for a couple through the Marketplace costs \$743.50 per month.

An annual income of \$35,000.00 is 146.75% of the 2014 federal poverty level (FPL) for a four-person household. At 146.75% of the FPL, the expected contribution to the cost of health insurance premium is 3.83% of income, or \$111.67 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 a couple in your county (\$743.50 per month) minus your expected contribution (\$111.67 per month) which equals \$631.83 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 \$35,000.00 is

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146.75% of the 2014 FPL for a four-person household, the Marketplace correctly found you eligible for cost-sharing reductions.

Under the APTC Premium Assistance Program, a parent whose income is between 138% and 150% of the FPL is eligible for payment of premium amounts that their APTC does not cover if they enroll in a silver-level health plan. Since your household income is 146.75% of the FPL and you have two children whom you expect to claim as dependents for the 2015 tax year, you are eligible for the APTC Premium Assistance Program.

The Marketplace's November 7, 2014 eligibility determination relies on income information that is not available in the record. The credible evidence that you provided on your income does not support the November 7, 2014 determination. Therefore, the November 7, 2014 eligibility determination lacks support in the record and is RESCINDED. Your eligibility will be redetermined using the record as currently developed, including the evidence provided during the appeal process.

Decision

The November 7, 2014 eligibility determination is RESCINDED.

Your case is REMANDED to the Marketplace for a determination of financial assistance eligibility for yourself and your spouse based on a household of four people, with an expected annual household income of \$35,000.00, and a county of residence of Queens County for a couple plan.

Effective Date of this Decision: June 12, 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 household of four people, with an expected annual household income of \$35,000.00, and a county of residence of Queens County for a couple plan.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further 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 7, 2014 eligibility determination is **RESCINDED**.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for health insurance based on a household of four people, an expected

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annual income of \$35,000.00, and a county of residence of Queens County for a couple plan.

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]
[REDACTED]