



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

Notice of Decision

Decision Date: May 13, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001367

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

Dear [REDACTED],

On February 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 5, 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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[REDACTED]
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[REDACTED]

Issue

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

Did the Marketplace properly determine that you were not eligible for an advance premium tax credit or cost-sharing reductions effective January 1, 2015?

Procedural History

The Marketplace received your initial application for health insurance on November 18, 2014.

On December 5, 2014, the Marketplace issued a notice of eligibility determination that stated you are eligible to enroll in a qualified health plan at full cost through New York State of Health, but are not eligible for an advance premium tax credit or cost-sharing reductions because your household income of \$55,000.00 is over the allowable limit for these programs.

On December 29, 2014, the Marketplace received your written appeal request regarding the December 5, 2014 eligibility determination insofar as it did not consider your financial obligations and circumstances that effect your income.

On January 14, 2015, the Marketplace received your modified application for health insurance.

On January 15, 2015, the Marketplace issued an eligibility redetermination notice in your case that you were newly eligible to receive up to \$20.00 per month of

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advance premium tax credit to help pay for the cost of health coverage. It also stated that you are not eligible for cost-sharing reductions because your household income of \$44,120.00 is over the allowable limit for this program.

Your telephone hearing was scheduled for January 29, 2015 at 3:00 p.m. At that time, a Hearing Officer from the Marketplace's Appeals Unit contacted you to hold the hearing however, you were not prepared to go forward with the formal hearing at that time. Your hearing was adjourned to February 5, 2015 at 2:00 p.m.

On February 5, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified, and the record reflects, that you expect to file your 2015 federal income tax return as single and will claim no dependents on that tax return.
- 2) According to your November 18, 2014 application for health insurance, you expect an income of \$55,000.00 for the 2015 tax year.
- 3) You testified that when you were completing your November 18, 2014 application for health insurance, you were not offered an opportunity to include financial circumstances that affect your monthly income. You further testified that you have a mandatory New York State tax obligation requiring a monthly payment of \$212.00 per month and an additional IRS wage garnishment of \$460.00 per month.
- 4) You testified that when you modified your application for health insurance on January 14, 2015, you included your additional New York State and IRS tax obligations as an "Other adjustments" deduction of \$167.00 per week. You testified that you included your additional tax obligations in this way because that was the only way to adjust your income to reflect your financial circumstances.
- 5) You testified that you do not expect to claim any deductions for the 2015 tax year.
- 6) You testified that you expect your income for 2015 to be approximately \$52,805.00 before taxes are deducted.

- 7) The record reflects that you reside in Queens County, New York.
- 8) You testified that you cannot afford a monthly premium with your other mandatory financial obligations.

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)).

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).

Eligibility for the advance premium tax credit (APTC) is based on the taxpayer’s modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR 155.300(a)). Generally, MAGI is your adjusted gross income plus any non-taxable social security income, non-taxable interest income and non-taxable foreign income that you receive (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).

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)).

Hardship Exemption

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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 he 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 qualified health plan (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)).

Catastrophic Plan Eligibility

A person who has applied for and received a hardship exemption may enroll in a catastrophic coverage plan regardless of age (45 CFR § 155.305(h)(2)).

Legal Analysis

According to the record, you are the only member of your tax household. You expect to file as single on your 2015 federal income tax return and claim no dependents.

A one-person household may qualify for advance premium tax credits (APTC) if the annual household income is between \$16,105.00 (138% of the 2014 federal poverty level (FPL)) and \$46,680.00 (400% of the 2014 FPL).

According to your December 4, 2014 application for health insurance, your 2015 expected income is \$55,000.00. An annual household income of \$55,000.00 equals 471.30% of the 2014 FPL for a one-person household. Therefore, because your 2014 expected yearly income exceeds \$46,680.00 (400% of the 2014 FPL), the Marketplace correctly determined that you were not eligible for APTC.

Since you were not eligible to receive APTC, the Marketplace correctly determined that you were not eligible for cost-sharing reductions. Therefore, your December 5, 2014 eligibility determination is AFFIRMED.

However, at the hearing you testified that you expect your 2015 annual household income to be approximately \$52,805.00 before taxes or wage garnishments are deducted. You also testified that you do not expect to take any deductions for the 2015 tax year but included your New York State tax obligation and IRS wage garnishment as an \$8,684.00 deduction in your January 14, 2015

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application because that was the only section of the application which allowed you to include these adjustments to your income. The Internal Revenue Service rules do not allow those expenses to be deducted from modified adjusted gross income, which is the number used to calculate the amount of APTC.

Since your January 15, 2015 eligibility determination was based on incorrect income information, it is not supported by the evidence of record and must be **RESCINDED**.

You testified that you cannot afford to pay the monthly insurance premium even if you have APTC and cost-sharing reductions due to your other mandatory financial obligations. 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 visit the Federal marketplace website (www.healthcare.gov) for an application.

If you are approved for a hardship exemption, you may apply for catastrophic health coverage, regardless of age.

Decision

The December 5, 2014 eligibility determination is **AFFIRMED**.

The January 15, 2015 eligibility determination is **RESCINDED**.

The case is **REMANDED** to the Marketplace for redetermination of your eligibility with an expected 2015 income of \$52,804.00 for a one person household in Queens County.

Effective Date of this Decision: May 13, 2015

How this Decision Affects Your Eligibility

This Decision does not make a final determination on your eligibility.

The January 15, 2015 eligibility determination is rescinded because it was based on incorrect income information. The Marketplace will redetermine your eligibility on the corrected information that you provided at your hearing and issue a new determination.

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 visit the Federal marketplace website (www.healthcare.gov) for an application.

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If you are approved for a hardship exemption, you may apply for catastrophic health coverage, regardless of age.

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:
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- By fax: 1-855-900-5557

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Summary

The December 5, 2014 eligibility determination is AFFIRMED.

The January 15, 2015 eligibility determination is RESCINDED.

The January 15, 2015 eligibility determination is rescinded because it was based on incorrect income information. The Marketplace will redetermine your eligibility on the corrected information that you provided at your hearing and issue a new determination.

The case is REMANDED to the Marketplace for a redetermination of your eligibility with an expected 2015 income of \$52,804.00 for a one person household in Queens County.

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 visit the Federal marketplace website (www.healthcare.gov) for an application.

If you are approved for a hardship exemption, you may apply for catastrophic health coverage, regardless of age.

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] [REDACTED]
[REDACTED]
[REDACTED]