



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

Notice of Decision

Decision Date: July 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001389

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On February 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 7, 2014 and January 9, 2015 eligibility determinations.

The attached 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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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 purchase a qualified health plan (QHP) at full cost, effective January 1, 2015?

Did the Marketplace properly determine that you were eligible to receive an advance premium tax credit (APTC) of up to \$314.00 per month, effective February 1, 2015?

Procedural History

On April 20, 2014, the Marketplace issued a notice of eligibility redetermination stating that you were eligible to receive up to \$270.00 per month in advance premium tax credit (APTC) and cost-sharing reductions (CSR), effective May 1, 2014, based in part on expected annual household income of \$21,400.00.

On November 7, 2014, the Marketplace issued a notice stating that it was time to renew your Marketplace coverage for the 2015 plan year. It further stated that you had been reenrolled in your previous plan with a coverage start date of January 1, 2015. However, it found you were now qualified to buy a health plan at full cost, because you no longer qualified for either tax credits or CSR. The Marketplace made this determination because federal and state data sources showed your household income was over \$46,680.00. You were also directed to update the information in your Marketplace account by December 15, 2014 if you believed a mistake had been made in your eligibility determination.

No updates were made to your account before December 15, 2014.

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On January 8, 2015, the Marketplace received two revised applications; in the first, your expected annual income was listed as \$40,000.00, and in the second, you attested to an expected annual income of \$17,410.00.

That same day, the Marketplace prepared preliminary determinations in connection with each application submitted on January 8, 2015. Based on the first application, which listed an expected annual income of \$40,000.00, the Marketplace found you eligible for up to \$53.00 per month in APTC.

In response to the second application, in which you attested to an expected annual income of \$17,410.00, the Marketplace found you eligible to receive up to \$314.00 per month in APTC and CSR beginning February 1, 2015.

Also on that same day, you spoke with the Marketplace's Account Review Unit to appeal the January 8, 2015 preliminary eligibility determinations insofar as you were found eligible to begin receiving a tax credit of \$314.00 per month no earlier than February 1, 2015.

On January 9, 2015, the Marketplace issued a written notice of eligibility determination based on the second application you submitted on January 8, 2015. It stated that you were eligible to receive up to \$314.00 per month in APTC and, if you selected a silver level plan, CSR, effective February 1, 2015.

On February 11, 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) On March 26, 2014, the Marketplace issued a notice confirming your choice to receive all information electronically.
- 2) You testified, and the record reflects, that you were enrolled in your health insurance plan during the 2014 plan year.
- 3) You testified that you do not recall seeing an e-mail or notification issued by the Marketplace on November 8, 2014 that you had been reenrolled in your Oscar Edge plan but were no longer eligible for financial assistance beginning January 1, 2015.
- 4) You testified that you were out of the country beginning sometime between the 2nd or 3rd week of November 2014, and that you returned around January 5, 2015.

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- 5) You testified that while out of the country you made several attempts to update your account information, but were unable to access your account due to not being in the United States. You also stated that during this time, you made no attempt to update your account information by calling the Marketplace.
- 6) You testified that you first became aware that you were not eligible for a tax credit to reduce the cost of your health insurance premium for the month of January 2015 when you received a billing statement issued by your plan on or about January 7, 2015, which reflected a premium amount of \$397.73.
- 7) You testified that you contacted the Marketplace to update your information on January 8, 2015, and then requested an appeal that same day when you were informed by a Marketplace representative that you were not eligible to begin receiving tax credits earlier than February 1, 2015.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for that year, including any expected eligibility for financial assistance (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). If a qualified individual does not respond to the notice within a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice, and any reported changes (45 CFR § 155.335(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330(f)(1)(ii)). However, the Marketplace may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the next following month (45 CFR §155.330 (f)(2)), and it has elected to do so.

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, the Marketplace must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the benefit year (45 CFR § 155.330(g)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take APTC to help pay for the cost of an insurance premium must file a tax return and has the opportunity to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year, and to reconcile the amounts of APTC he received during the year with his actual tax credit at the time of filing. A person who received less tax credit than his maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue is whether the Marketplace properly determined that as of November 7, 2015, you were eligible to enroll in a qualified health plan (QHP) at full cost effective January 1, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually, and must issue a renewal notice that contains the information the Marketplace will use to determine an individual's eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 7, 2014, the Marketplace issued an annual eligibility redetermination notice in your case. This notice stated that based on information from federal and state sources, the Marketplace found that you did not qualify for financial help paying for your health coverage. The notice further stated that if you believed the Marketplace made a mistake to update the information in your NY State of Health account by December 15, 2014.

While you stated that you do not recall receiving that November 7, 2014 notice, our records indicate that you elected to receive all notices electronically and that the notice was issued.

On December 15, 2014, the Marketplace had not received any updated information from you. Therefore, the Marketplace was required to use the information that was contained in the November 7, 2014 notice in order to determine your eligibility for coverage beginning January 1, 2015. Since you did not provide any changes to the Marketplace, the November 7, 2014 determination that you were eligible to purchase a QHP at full cost, effective January 1, 2015, remained in effect. You were not eligible to receive tax credits or cost-sharing reductions based on the information from federal and state sources that your income was \$46,680.00. This finding was necessitated by the federal regulations noted above and, therefore, the Marketplace's November 7, 2014 eligibility determination is AFFIRMED.

The second issue is whether the Marketplace properly determined as of January 8, 2015 that you were eligible to receive tax credits no earlier than February 1, 2015.

Generally, if the Marketplace receives updated information, it must issue a redetermination effective on the first day of the month following the date the Marketplace is notified of the change. However, the Marketplace may determine that its policy will be that any change made after the 15th of any month will not be effective until the first day of the next following month; it has adopted this general policy.

Here, the credible evidence shows that you submitted two revised applications to the Marketplace on January 8, 2015 in which you attested to an updated expected yearly income of \$17,410.00 and \$40,000.00. Accordingly, the Marketplace issued a notice of eligibility determination on January 9, 2015 that correctly found you eligible to receive a tax credit effective February 1, 2015.

Therefore, the January 9, 2015 notice of eligibility determination is AFFIRMED and the February 1, 2015 effective date to receive up to \$314.00 per month of tax credits remains in effect.

Please note, however, that any amount of tax credit you would have been eligible for during the month of January 2015, had you been found eligible for an

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advance premium tax credit, will be reconciled by the Internal Revenue Service when you file your 2015 U.S. Income Tax Return.

Decision

The November 7, 2015 eligibility determination is AFFIRMED.

The January 9, 2015 notice of eligibility determination is AFFIRMED.

Effective Date of this Decision: July 22, 2015

How this Decision Affects Your Eligibility

You were not eligible for a tax credit during January 2015.

You remain eligible for an advance premium tax credit (APTC) of up to \$314.00 per month and eligible for cost-sharing reductions (CSR) beginning February 1, 2015.

Please note, however, that any amount of tax credit you would have been eligible for during the month of January 2015, had you been found eligible for an APTC, will be reconciled by the Internal Revenue Service when you file your 2015 U.S. Income Tax Return.

Also note that this Decision has no effect on any determination issued by the Marketplace after January 9, 2015.

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

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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

Summary

The November 7, 2015 eligibility determination is AFFIRMED.

The January 9, 2015 notice of eligibility determination is AFFIRMED.

You were not eligible for a tax credit during January 2015.

You remain eligible for an advance premium tax credit (APTC) of up to \$314.00 per month and eligible for cost-sharing reductions (CSR) beginning February 1, 2015.

Please note, however, that any amount of tax credit you would have been eligible for during the month of January 2015, had you been found eligible for an APTC, will be reconciled by the Internal Revenue Service when you file your 2015 U.S. Income Tax Return.

Also note that this Decision has no effect has no effect on any determination issued by the Marketplace after January 9, 2015.

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]