



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

Notice of Decision

Decision Date: June 23, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001397

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 3, 2015 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).

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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[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 January 3, 2015, you, your spouse, and your daughter were eligible for up to \$930.00 per month in advance premium tax credit and eligible for cost sharing reductions effective February 1, 2015?

Procedural History

On November 8, 2014, the Marketplace issued a notice stating that it was time to renew your health insurance coverage for 2015. That notice stated that you, your spouse, and your daughter were re-enrolled in your current health plan with Empire Blue Cross Blue Shield for another year, and that no further action was required if the information on the notice was accurate, assuming you paid your premiums.

It also stated that you, your spouse, your daughter, and your son qualified for a shared advance premium tax credit of up to \$1,005.08 per month because federal and state data sources showed your household income was between \$38,516.00 and \$111,640.00. You, your spouse, your daughter, and your son could also receive cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective January 1, 2015.

On December 25, 2014, the Marketplace issued a notice stating that your coverage would end effective December 31, 2014, but not to worry, because you had been automatically renewed for the same plan for 2015.

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On January 2, 2015, information in your Marketplace account was modified.

On January 3, 2015, the Marketplace issued an eligibility redetermination notice. That notice stated that you, your spouse, and your daughter were eligible for a shared advance premium tax credit amount of up to \$930.00 per month. This eligibility was effective as of February 1, 2015.

On January 8, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on February 1, 2015, not January 1, 2015.

On February 12, 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 that you were appealing the eligibility determination for you, your spouse, and your daughter.
- 2) You testified that in late December 2014 you paid about \$550.00 to Empire Blue Cross Blue Shield for your January 2015 premium payment.
- 3) You testified that after you had submitted your payment, you received a bill from Empire Blue Cross Blue Shield that stated that you owed the full premium amount, \$1,474.08, for the month of January.
- 4) You testified that on January 2, 2015, after you received the bill, you called the Marketplace and they reran your household's eligibility and re-enrolled you, your spouse, and your daughter into the same Empire Blue Cross Blue Shield plan that you had been enrolled in since February 1, 2014. The advance premium tax credit eligibility was made effective for February 1, 2015.
- 5) You testified that you cannot afford to pay the full January premium without a subsidy.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

The Marketplace must redetermine the eligibility for health insurance and financial assistance to help pay for that health insurance of a qualified individual on an annual basis by either obtaining information from federal data sources or by allowing the individual to update changes in their income and family size (42 CFR § 155.335(a), (b), (e)).

The Marketplace must ensure this redetermination is effective on the first day of the coverage year (42 CFR § 155.335 (i)).

Annual Open Enrollment

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a Qualified Health Plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)).

The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR § 155.410(e)).

For the benefit year beginning January 1, 2015, the Marketplace must ensure coverage is effective on January 1, 2015 for QHP selections made on or before December 15, 2014 (45 CFR § 155.410(f)(1)). The New York State of Health extended the December 15, 2014 deadline to December 20, 2014, for coverage beginning January 1, 2015 (NY State Department of Health Press Release, December 12, 2014).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. 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 issue is whether the Marketplace properly determined that your advance premium tax credit (APTC) as stated in the January 3, 2015 eligibility determination was not effective until February 1, 2015 for the 2015 tax year.

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On November 8, 2014, the Marketplace issued an annual eligibility redetermination notice in your case. That notice stated that you, your spouse, and your daughter were re-enrolled in your current health plan with Empire Blue Cross Blue Shield for another year and that no further action was required. It also stated that you, your spouse, and your daughter were qualified for a shared APTC of up to \$1,005.08. This eligibility was effective January 1, 2015.

You testified that you had paid about \$550.00 for your insurance premium for January because that is what you thought your premium was after the application of your family's APTC. However, you testified that you subsequently were charged the full amount of premium from your plan. You testified, and the record reflects, that your family's premium cost before the APTC premium amount is taken out is \$1,474.08.

You testified that you called the Marketplace on January 2, 2015, after you received the premium bill. The Marketplace modified your application while they were on the phone with you. The January 3, 2015 eligibility determination notice that was issued as a result of the modification resulted in an APTC amount of \$930.00 per month, effective February 1, 2015. Because the updates to your account were received before the 15th of January, the Marketplace properly determined that the eligibility for APTC in the January 3, 2015 notice was effective February 1, 2015. Therefore, the January 3, 2015 eligibility determination notice is AFFIRMED.

However, the APTC amount that was stated in the November 8, 2014 annual eligibility determination should have been effective for the month of January. Therefore, your case is RETURNED to the Marketplace to implement that November 8, 2014 annual eligibility determination notice for the month of January.

Decision

The January 3, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to implement the amount of advance premium tax credit listed in the November 8, 2014 determination for the month of January.

Effective Date of this Decision: June 23, 2015

How this Decision Affects Your Eligibility

You, your spouse, and your daughter were eligible for a shared advance premium tax credit of up to \$1,005.08 for the month of January.

You, your spouse, and your daughter are eligible for a shared advance premium tax credit of up to \$930.00 effective February 1, 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 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
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Summary

The January 3, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to implement the amount of advance premium tax credit (APTC) listed in the November 8, 2014 determination for the month of January.

You, your spouse, and your daughter were eligible for a shared APTC of up to \$1,005.08 for the month of January.

You, your spouse, and your daughter are eligible for a shared APTC of up to \$930.00 effective February 1, 2015.

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]