



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

Notice of Decision

Decision Date: May 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001416

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 10, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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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Issue

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

Did the Marketplace properly determine that you were eligible for up to \$158.00 per month in advance premium tax credit and cost-sharing reductions effective February 1, 2015?

Procedural History

Beginning on February 1, 2014, you were covered by a Primary Select qualified health plan qualified health plan (QHP) purchased through the Marketplace, and part of the cost of your premium was offset by an advance premium tax credit of up to \$230.00 per month.

On November 5, 2014, the Marketplace issued a notice that it was time to renew your health insurance coverage for 2015. That notice stated that you were re-enrolled in your current health plan for another year and that no further action was required. However, it also stated that, according to information obtained from federal and state data source, you no longer qualify for tax credits or cost-sharing reductions because your household income is over the allowable income limit for these programs.

On December 11, 2014, the Marketplace issued a notice confirming that, effective January 1, 2015, you were enrolled in a PrimarySelect QHP with no advance premium tax credit.

On December 27, 2014, the Marketplace issued a notice that your 2014 PrimarySelect QHP would end effective December 31, 2014 but that you would be automatically renewed with the same plan for 2015.

On January 9, 2015, the Marketplace received your modified application for health insurance coverage for 2015 and made a preliminary determination that you are eligible to receive up to \$158.00 per month in advance premium tax credit and cost-sharing reductions effective February 1, 2015.

Also on January 9, 2015, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as it began your financial assistance eligibility on February 1, 2015, not January 1, 2015.

On January 10, 2015, the Marketplace issued a notice of eligibility determination that reflected the January 9, 2015 preliminary determination.

On February 9, 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 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 24, 2015.

Findings of Fact

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

- 1) You testified that you expect to file your 2015 federal income tax return as single and claim no dependents.
- 2) You testified that your 2014 monthly premiums were paid through automatic withdrawal from your bank account.
- 3) You testified that you may have received the notices issued by the Marketplace regarding your renewal for 2015 health insurance coverage but you did not see them because you did not pay attention to the mail.
- 4) You testified that you became aware that you were no longer receiving an advance premium tax credit because \$295.03 was withdrawn from your bank account for your January 2015 health insurance premium. You further testified that your premium for January 2015 was paid in full.
- 5) You testified, and the record reflects, that on January 9, 2015 you changed your health insurance plan enrollment to a TotalIndependence plan.

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- 6) You testified that you would like the advance premium tax credit amount you are now eligible for to be applied retroactively your January 2015 premium payment.
- 7) You testified that the information entered in your January 9, 2015 application is accurate.

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

Applicable Law and Regulations

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)).

When it is time to renew QHP coverage, an enrollee will be reenrolled in the same health insurance plan if (1) the enrollee remains eligible to enroll in a QHP through the Marketplace; (2) the QHP is still available through the Marketplace; and (3) the enrollee does not terminate that coverage, including by selecting a different QHP (45 CFR § 155.335(j)(1)).

For the benefit year beginning on 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).

“Upon making an eligibility determination, the [Marketplace] must implement the eligibility determination under this section for enrollment in a QHP through the [Marketplace], advance payments of the premium tax credit, and cost-sharing reductions as follows— (1) For an initial eligibility determination, in accordance with the dates specified in § 155.410(c) and (f) and § 155.420(b), as applicable, (2) For a redetermination, in accordance with the dates specified in § 155.330(f) and § 155.335(i), as applicable” (45 CFR §155.310(f)).

Federal regulation 45 CFR § 155.335(i) sets the effective date on “the first day of the coverage year” or in accordance with the rule specified in 45 CFR § 155.310(f), whichever is later. Federal regulation 45 CFR § 155.310(f) sets the

effective date on the first day of the month following the date on which the enrollee changed the information in his account.

At the end of a tax year, a person who elects to take the advance premium tax credit (APTC) 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).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their income tax return). Those who take less tax credit in advance than they claim on the tax return may have their taxes reduced or get the rest of the credit as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Legal Analysis

The issue under review is whether the Marketplace properly determined that the effective date for your advance premium tax credit is February 1, 2015.

On November 5, 2014, the Marketplace issued a notice stating that you would be re-enrolled in your current health plan for another year and that no further action was required. It also stated that, according to information obtained from federal and state data source, you no longer qualify for tax credits or cost-sharing reductions because your household income is over the allowable income limit for these programs.

You testified that you did not pay attention to the mail and are not certain whether you received notices from the Marketplace regarding your health insurance renewal for 2015. You further testified that you did not check your mail and so did not see the November 5, 2014 notice.

On November 19, 2014, the Marketplace issued a notice confirming that you were reenrolled in the PrimarySelect qualified health plan (QHP), effective January 1, 2015, with a monthly premium of \$295.03.

On January 9, 2015, you updated the income information in your Marketplace account and changed your enrollment from the PrimarySelect QHP to a TotalIndependence QHP.

On January 10, 2015, the Marketplace issued a notice of eligibility determination stating that, effective February 1, 2015, you were eligible to enroll in a QHP with an advance premium tax credit (APTC) of up to \$158.00 per month and that you were eligible for cost-sharing reductions while enrolled in a silver-level QHP.

Under the relevant federal regulations, February 1, 2015 is the effective date for a QHP selected on January 9, 2015 and the effective date for an APTC determined on a January 9, 2015 application. Therefore, the January 10, 2015 eligibility determination is supported by the record and is AFFIRMED.

Note that the APTC is an advance on the tax credit you can claim on your 2015 federal tax return. Any difference between the advance credit you use to help pay your health insurance premiums and the credit you claim on your 2015 taxes will be reconciled when you file your federal tax return next year.

Decision

The January 10, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: May 22, 2015

How this Decision Affects Your Eligibility

You remain eligible to receive an advance premium tax credit of up to \$158.00 per month.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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.

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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 January 10, 2015 eligibility determination is AFFIRMED.

You remain eligible to receive an advance premium tax credit of up to \$158.00 per month.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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]