



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: AP000000001465

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On February 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 and December 31, 2014 eligibility determinations.

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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

In the December 22, 2015 eligibility determination, did the Marketplace properly determine that you were eligible to purchase a qualified health plan at full cost effective January 1, 2015?

Did you have health coverage through your plan during the month of January 2015, and if so, should the amount of monthly advance premium tax credit referenced in the December 31, 2014 notice be applied to the January premium for that coverage?

Procedural History

On March 12, 2014, the Marketplace issued a notice that stated you were temporarily eligible to enroll in a qualified health plan and to receive tax credits to help pay for your insurance; however, more information was needed to make a final determination. The notice further stated that you had chosen a health insurance plan, and that your coverage would start shortly after you paid your first premium payment.

On July 11, 2014, you were again notified that you needed to submit additional information regarding your income.

On November 6, 2014, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for 2015. The notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether you qualified for continuing financial help in paying for

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your health coverage in 2015. You were directed to update the information in your NY State of Health account by December 15, 2014, or the financial help you were receiving might end.

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

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated you were newly eligible to purchase a qualified health plan at full cost. You were not eligible to receive advance premium tax credits (APTC) because “renewal period and income data [was] not available.” You were not eligible for cost-sharing reductions because you were ineligible to receive APTC. You were not eligible for Medicaid because your household income was in excess of that allowed by that program. This eligibility was effective January 1, 2015.

On December 23, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 22, 2014, you were enrolled in SilverPlus-S2 with a premium responsibility of \$398.82. The notice further stated that if you have a premium responsibility, you must pay the monthly premium before your coverage can begin. If you do not pay your premium, you may not have health coverage.

On December 30, 2014, information in your Marketplace account was updated.

On December 31, 2014, the Marketplace issued an eligibility determination notice that stated you were newly eligible to receive up to \$265.00 in APTC, and to receive cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective February 1, 2015.

Also on December 31, 2014, the Marketplace issued an enrollment confirmation notice that stated as of December 31, 2014 you were enrolled in SilverPlus-S2 with a premium responsibility of \$398.82. The notice further stated that if you have a premium responsibility, you must pay the monthly premium before your coverage can begin. If you do not pay your premium, you may not have health coverage.

On January 14, 2015, you spoke to the Marketplace’s Account Review Unit and appealed the eligibility determinations insofar as they began your financial assistance for eligibility on February 1, 2015, and not January 1, 2015.

On January 15, 2015, the Marketplace issued an enrollment confirmation notice stating that as of January 14, 2015, you were enrolled in SilverPlus-S2 with a premium responsibility of \$133.82. The notice further stated that if you have a premium responsibility, you must pay the monthly premium before your coverage can begin. If you do not pay your premium, you may not have health coverage.

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On February 17, 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 until March 3, 2015 to allow you time to submit the letters from your health plan that led you to believe that no action was needed in order for your APTC amount to continue for 2015. The Appeals Unit did not receive any evidence from you by the close of the business day on March 3, 2015. The record is now closed.

Findings of Fact

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

- 1) In your application you attested to expected annual income of \$22,000.00.
- 2) You testified that you enrolled with a health insurance plan in January 2014 and that you received billing statements from them stating the amount of premium you must pay.
- 3) You testified that you received an email from the Marketplace in November that said you needed to renew the information in your account. You further testified that you thought the email said that you had until December 31, 2014 to update your account.
- 4) You testified that you made sure you called the Marketplace before December 31, 2014 to update your account.
- 5) You testified that you updated your account on December 30, 2014.
- 6) You testified that you did not know you had to pay the full premium for the month of January 2015 until you received a letter that stated your premium responsibility.
- 7) You testified that you wanted to stay enrolled in the same insurance plan for 2015.
- 8) You testified that you thought you had letters from your plan that said no action was needed on your part. You testified that you if you could find these letters you would submit them as evidence.
- 9) You testified that you paid the full premium amount of \$398.82 for your coverage in the month of January.
- 10) You testified the full premium was a lot to pay all at once and you are seeking partial reimbursement for the full premium you paid in January.

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 information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year (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 after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (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 (13 OHIP/ADM-03).

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)).

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End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the 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, 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).

Calculation of APTC

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).

In an analysis of APTC eligibility, the determination is based on the federal poverty level (FPL) for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 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).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Legal Analysis

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

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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 6, 2014, the Marketplace issued an annual eligibility redetermination notice in your case. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualify for financial help paying for your health coverage. You were asked to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end.

You testified that you had received an email regarding the renewal process, however you thought you had until the end of December to update your account. Furthermore, you testified that you thought you had letters from your insurance carrier that said no action was needed on your part. You testified that if you could find these letters you would submit them as evidence. The Appeals Unit did not receive copies of these letters within the allotted time frame, and without this supporting evidence, it cannot rely solely on your testimony that you thought the letters told you that no action was needed.

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 6, 2014 notice in order to determine your eligibility for coverage beginning January 1, 2015.

On December 22, 2014, the Marketplace issued a notice that stated you were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. You were not eligible to receive an advance premium tax credit (APTC) because renewal period and income data was not available. This finding was necessitated by the federal regulations noted above and, therefore, the Marketplace's December 22, 2014 eligibility determination is AFFIRMED.

The second issue is whether you had coverage with your plan in January and whether the APTC amount listed in the December 31, 2015 eligibility determination notice should be applied to the premium amount for January.

On December 23, 2015, the Marketplace issued a letter that stated you were enrolled in your plan with a premium responsibility of \$398.82. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

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You testified that you paid \$398.82 to the insurance carrier to cover your premium responsibility for the month of January. By paying your premium, your coverage through your plan was effective as of January 1, 2015. You further testified that you wished to remain enrolled in this plan.

On December 30, 2014, you updated the information in your Marketplace account. This resulted in a December 31, 2014 eligibility determination notice that stated you were newly eligible to receive up to \$265.00 in APTC, and, if you enrolled in a silver level health plan, cost-sharing reductions. This eligibility was effective February 1, 2015.

When an individual changes information in their application after the 15th of any month, the Marketplace must make the redetermination that results from that change effective the first day of the next following month. Therefore, it was proper that you did not have any eligibility for APTC in January.

However, since your coverage did start on January 1, 2015, your overall tax credit at the end of the year will be based on 12 full months of coverage, assuming you remain enrolled in your plan. Since you were not eligible for APTC until February 1, 2015, you were entitled to a calculation of your monthly APTC distributed over the remaining 11 months of the year, and not a full year. That is, your APTC should have been apportioned over the remaining 11 months of the year, because you did not receive APTC for January 2015.

Therefore, the matter is returned to the Marketplace for a recalculation of APTC.

Decision

The December 22, 2014 eligibility determination is AFFIRMED.

The December 31, 2014 eligibility determination is MODIFIED to reflect that your annual APTC is to be divided over the remaining 11 months year, and the Matter is returned to the Marketplace for the recalculation.

Effective Date of this Decision: June 12, 2015

How this Decision Affects Your Eligibility

You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

You were enrolled in your qualified health plan effective January 1, 2015.

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You are eligible for an advance premium tax credit (APTC) and cost-sharing reductions effective February 1, 2015; however, the matter is returned to the Marketplace for a determination on the amount of APTC you are entitled to when your annual amount is divided over the remaining 11 months of the year.

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

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Summary

The December 22, 2014 eligibility determination is **AFFIRMED**.

The December 31, 2014 eligibility determination is **MODIFIED** to reflect that your annual advance premium tax credit (APTC) is to be divided over the remaining 11 months of the year, and the Matter is returned to the Marketplace for the recalculation.

You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

You were enrolled in your qualified health plan effective January 1, 2015.

You are eligible for APTC and cost-sharing reductions effective February 1, 2015; however, the matter is returned to the Marketplace for a determination on the amount of APTC you are entitled to when your annual amount is divided over the remaining 11 months of the year.

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]