



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

Notice of Decision

Decision Date: June 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001467

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

Dear [REDACTED],

On February 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 9, 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 letter.

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).

This page intentionally left blank.



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

Decision

Decision Date: June 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001467

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that you are eligible for an advance premium tax credit of up to \$286.00 per month and cost sharing reductions, as of December 9, 2014?

Procedural History

On December 9, 2014, the Marketplace issued an eligibility determination notice that stated you are eligible to receive an advance premium tax credit of up to \$286.00 per month and cost sharing reductions based on an expected household income of \$24,375.00 for 2015.

On January 15, 2015, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as it did not approve an advance premium tax credit of more than \$286.00 per month.

On February 13, 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 allow you an opportunity to submit supporting income documentation.

On February 18, 2015, the Marketplace's Appeals Unit received your evidence via fax, which contained a copy of your paystubs for December 2014 and January 2015. The evidence was collectively marked as Appellant's Exhibit 1 and incorporated it into the record. The record was closed on February 18, 2015.

Findings of Fact

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

- 1) You testified, and the record reflects, that you currently live with your child.
- 2) You testified, and the record reflects, that you expect to file your 2015 federal income tax return as single and claim your child as your dependent.
- 3) You testified that although your father does not live with you full time, you expect to claim him on your tax return as a dependent for 2015.
- 4) You testified, and the record reflects, that you are the only individual in your household seeking insurance through New York State of Health.
- 5) According to your December 8, 2014 application, you attested to an expected income of \$24,375.00 for the 2015 tax year.
- 6) You testified, and provided evidence, that you are paid weekly and typically earn \$468.75 per week before taxes are deducted. You provided evidence that you earned \$421.88 on December 4, 2014; \$468.75 on December 11, 2014; \$468.75 on December 18, 2014; \$468.75 on December 24, 2014; \$468.75 on December 31, 2014; \$468.75 on January 8, 2015; \$468.75 on January 15, 2015; \$468.75 on January 22, 2015; and \$468.75 on January 29, 2015 before taxes were deducted (Appellant's Exhibit 1, February 18, 2015).
- 7) You testified that you occasionally receive child support in the amount of \$250.00 per month, but do not receive child support every month.
- 8) You testified, and the record reflects, that you live in Queens County, New York.

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

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).

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)).

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).

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).

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 renewal, that was the 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

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)).

Household size:

For purposes of APTC and CSR, household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Typically, a taxpayer may claim as dependent a “qualifying relative” who: (1) bears a relationship to the taxpayer as provided for under 26 USC § 152(d)(2), (2) has a gross income of the less than the \$3,950.00 exemption amount, (3) receives at least one-half of his support from the taxpayer, and (4) is not a “qualifying child” of the taxpayer or of any other taxpayer, in each case during the taxable year (see 26 USC § 152(d); 26 USC § 151(d); IRS, In 2014, Various Tax Benefits Increase Due to Inflation Adjustments (IR-2013,87, Oct. 31, 2013).

Advance Premium Tax Credit Premium Assistance Program

Under the APTC Premium Assistance program, a parent or caretaker relative who filed taxes or plans to file federal taxes in the tax year for which eligibility is being determined, whose income is above 138% of the FPL but at or below 150% of the FPL, is eligible for payment of health insurance premiums for a silver-rated qualified health plan, after applying advance premium tax credits to the cost of the premiums (N.Y. Soc. Serv. Law § 367-a(3)(e), 13ADM-03 (III)(B)(1)(h))

Legal Analysis

At issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$268.00 per month.

According to the December 8, 2014 application, your tax household consists of you and your child. You expect to file your 2015 tax return as single and claim your child as a dependent. Therefore, you are in a two-person household for purposes of this analysis. However, you are the only individual in your household seeking insurance through New York State of Health.

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$371.75 per month.

In that same application, you attested to an expected yearly income of \$24,375.00 for the 2015 tax year, and the eligibility determination relied upon that information.

An annual income of \$24,375.00 is 154.96% of the 2014 federal poverty level (FPL) for a two-person household. At 154.96% of the FPL, the expected contribution to the cost of health insurance premium is 4.25% of income, or \$86.33 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$371.75 per month) minus your expected contribution (\$86.33 per

month) which equals \$285.42 per month. Therefore, computing to the nearest dollar, you would be eligible for an APTC of up to \$285.00 per month.

The Marketplace computed your APTC by rounding \$285.42 to the next highest dollar, \$286.00. It therefore incorrectly calculated your APTC by \$1.00. This difference is not sufficient to remand to the Marketplace for redetermination and should be reconciled on your 2015 federal income tax return.

Cost-sharing reductions (CSR) are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$24,375.00 is 154.96% of the 2014 FPL for a two-person household, the Marketplace correctly found you eligible for CSR.

Accordingly, the December 9, 2014 eligibility determination is AFFIRMED.

However, at the February 13, 2015 hearing, you testified that you also expect to claim your father as a dependent for the 2015 tax year. There is currently insufficient evidence in the record to determine whether your father can be counted as a member of your household as a “qualifying relative” dependent for purposes of APTC and CSR. Therefore, at this time there is not enough information to allow the Marketplace to redetermine your eligibility based on a modified tax household size. If you believe your father can be counted as a member of your household for purposes of APTC and CSR, you should contact the Marketplace.

Decision

The December 9, 2014 eligibility determination is AFFIRMED.

You are eligible for an advance premium tax credit of up to \$286.00 per month and, if you select a silver-level plan, cost-sharing reductions.

Effective Date of this Decision: June 10, 2015

How this Decision Affects Your Eligibility

You are eligible for an advance premium tax credit of up to \$286.00 per month and, if you select a silver-level plan, cost-sharing reductions.

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

Summary

The December 9, 2014 eligibility determination is **AFFIRMED**.

You are eligible for an advance premium tax credit of up to \$286.00 per month and, if you select a silver-level plan, cost-sharing reductions.

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).

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]