



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: AP000000001471

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 19, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 15, 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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Appeal Identification Number: AP000000001471

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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 are eligible for \$98.00 monthly of Advance Premium Tax Credit (APTC) as of January 14, 2015?

Procedural History

On January 15, 2015, the Marketplace issued a notice of eligibility redetermination based on updated information it received from you on January 14, 2015. The notice stated you are eligible to receive an advance premium tax credit (APTC) up to \$98.00 per month and are not eligible for cost-sharing reductions or Medicaid because the household income you provided of \$34,666.58 is over the allowable income limits for each of these programs.

That same day, you spoke with a representative in the Marketplace's Account Review Unit and appealed the eligibility determination.

The Marketplace sent you notice on January 27, 2015, that a telephone hearing was scheduled for February 19, 2015 at about 9:00 a.m.

On February 19, 2015, a Hearing Officer from the Marketplace's Appeals Unit contacted you by telephone and agreed to adjourn the hearing to a more convenient time for you at 3:30 p.m. that day. The Hearing Officer contacted you at that time to conduct the

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hearing. Through sworn testimony, you agreed to waive formal notice of the hearing. The record was developed and closed at the end of the hearing.

Findings of Fact

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

- 1) You plan on filing your 2015 income tax return as single and will not be claiming any dependents.
- 2) You reside in Kings County, New York.
- 3) According to your testimony and your Marketplace application, your household's expected income for 2015 is \$34,666.58.
- 4) You testified that, even with tax credits, health insurance coverage through the Marketplace is not affordable.

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 2014 federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a 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

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(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 FPL "for the benefit year for which coverage is requested" (45 CFR § 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 250% but less than 300% of the 2014 FPL, the expected contribution in 2015 is between 8.10% and 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan. Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a qualified health plan; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a qualified health plan; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The only issue is whether the Marketplace properly determined that you are eligible for an advance premium tax credit (APTC) of \$98.00 per month.

According to your Marketplace application and your testimony at hearing, you attested to an expected yearly household income of \$34,666.58.00, which is the amount the Marketplace relied upon in determining your eligibility for financial assistance in 2015.

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According to the record, you have a one-person tax household for purposes of this analysis.

You reside in Kings County, where the second lowest cost silver plan available for an individual in 2015 through the Marketplace costs \$371.75 per month.

An annual income of \$34,666.58 is 297.06% of the 2014 federal poverty level (FPL) for a one-person household. At 297.06% of the FPL, the expected contribution to the cost of the health insurance premium is 9.47% of income, or \$273.58 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 2015 in your county (\$371.75 per month) minus your expected contribution (\$273.58 per month), which equals \$98.17 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined that you are eligible for APTC up to \$98.00 per month.

You testified, however, that you cannot pay the monthly insurance premium even with tax credits because the health plans are not affordable. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for directions and an application.

Decision

The January 15, 2015 eligibility determination, as made on January 14, 2015, is AFFIRMED.

Effective Date of this Decision: June 10, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit (APTC) up to \$98.00 per month.

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.

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).

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 January 15, 2015 eligibility determination, as made on January 14, 2015, is **AFFIRMED**.

You remain eligible for an advance premium tax credit (APTC) up to \$98.00 per month.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for directions and an application.

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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]