



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

Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001496

[REDACTED]

Dear [REDACTED],

On February 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's 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 the 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).

This page intentionally left blank.



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

Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001496



Issue

Did the Marketplace properly determine that you were eligible for an advance premium tax credit of up to \$177.09 per month for the month of January 2015?

Procedural History

The earliest notice in the record is a September 13, 2014 notice of eligibility redetermination confirming that you and your spouse were then eligible to enroll in a qualified health plan with an advance premium tax credit (APTC) of up to \$560.00 per month and, if enrolled in a silver level health plan, cost-sharing reductions (CSR). You enrolled in a silver plan and used the full \$560.00 per month in APTC that was available to you.

On November 8, 2014, the Marketplace issued a notice of eligibility redetermination for 2015. The decisions in it were "based on information about you from state and federal data sources obtained as of November 7, 2014." The notice stated that, effective January 1, 2015, you and your spouse would be re-enrolled in your plan for another year and would be eligible for APTC of up to \$177.09 per month.

On December 29, 2014, the Marketplace made a preliminary redetermination of your eligibility and found that, with an attested annual income of \$38,000.00, you and your spouse were eligible for APTC of up to \$486.00 per month and eligible for CSR.

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).

On December 30, 2014 and again on January 1, 2015, the Marketplace issued letters confirming your 2015 health plan enrollment. According to those notices, you were enrolled in a silver plan and your maximum APTC was \$486.00 per month. You were advised that, if you paid your first month's premium, your coverage could start as early as January 1, 2015.

On January 8, 2015, the Marketplace issued a notice of eligibility redetermination stating that, with a household income of \$38,000.00, you and your spouse were eligible for APTC of up to \$486.00 per month. That notice was effective as of February 1, 2015.

On January 16, 2015, you contacted the Marketplace to appeal the November 8, 2014 notice of eligibility redetermination insofar as it stated that your maximum APTC was only \$177.09 per month, rather than \$486.00.

Findings of Fact

1. During 2014 you and your spouse were enrolled in a qualified health plan (QHP) through the Marketplace and were eligible for an advance premium tax credit (ATPC) of up to \$560.00 per month.
2. During November 2014, the Marketplace determined your 2015 eligibility using information in state and federal data sources as of November 7, 2014. The APTC was determined to be a maximum of \$177.09 per month. The specific figures used to make the APTC calculation do not appear in the record.
3. An application was submitted for your account on December 29, 2014. In it, you attested to a household income of \$38,000.00.
4. You and your spouse expect to have a household income of about \$38,000.00 during 2015 (hearing testimony).
5. You are married, and you and your spouse plan to file your 2015 federal income tax return as married, filing jointly (12/29/14 application; hearing testimony).
6. You and your spouse have two children, whom you expect to claim as tax dependents on your 2015 tax return (12/29/14 application).
7. Your children have health insurance coverage in the Marketplace through Child Health Plus (1/1/15 enrollment notice). You and your spouse have qualified health plan through the Marketplace (1/1/15 enrollment notice).

8. Your family lives in Oneida County, New York (12/29/14 application).

Applicable Law and Regulations

The maximum amount of advance premium tax credit (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 \$23,850.00 for a four-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).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of insurance premiums must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and the actual income reported on their tax return. A person who takes a lower advance tax credit than the maximum they are entitled to may receive an income tax refund. A person who takes a higher advance tax credit than they can claim when they file their tax return will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The only issue raised on appeal is the correct amount of the advance premium tax credit (APTC) to which you and your spouse were entitled during January 2015.

During 2014, your maximum APTC was set at \$560.00 based upon an attested household income of \$38,509.09.

In the application that was submitted on December 29, 2014, you attested to an expected yearly income of \$38,000.00, which consists of your earnings and bonuses. The Marketplace relied upon that information in preparing its December 30, 2014 and January 1, 2015 notices.

According to the record there are four people in your tax household. You reside in Oneida County, where the second lowest cost silver plan available for a couple through the Marketplace costs \$372.40 per month. An annual income of \$19,968.00 is 171.11% of the 2014 federal poverty level (FPL) for a one-person household. At 171.11% of the FPL, the expected contribution to the cost of the health insurance premium is 5.00% of income, or \$83.18 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 couple in your county (\$626.85 per month) minus your expected contribution (\$140.92 per month), which equals \$485.93 per month. Therefore, when rounded to the nearest dollar, the Marketplace correctly stated, in the December 30, 2014 and January 1, 2015 notices, that your monthly APTC for 2015 is \$486.00.

The November 8, 2014 notice of eligibility redetermination for 2015 states that, according to "information about you from state and federal data sources" you are entitled to APTC of only \$177.09 per month, effective January 1, 2015. Since the data used to make the determination are not available for review, it is not possible to confirm that this APTC determination has a reliable basis. Since the credible evidence indicates that you and your spouse were entitled to APTC of \$560.00 during December 2014 and \$486.00 for February 2015 and later, the record supports your contention that your APTC for January 2015 should have been determined to be \$486.00, not \$177.09.

Accordingly, to bring the notices in this case into conformity with the credible evidence of record, the January 8, 2015 notice of eligibility redetermination is MODIFIED to state that, with a household income of \$38,000.00, you and your spouse were eligible for APTC of up to \$486.00 per month effective as of January 1, 2015.

Decision

The January 8, 2015 notice of eligibility determination is MODIFIED to state that you and your spouse were eligible for advance premium tax credit (APTC) of up to \$486.00 per month, effective as of January 1, 2015.

Effective Date of this Decision: January 1, 2015

How this Decision Affects Your Eligibility

You are entitled to an advance premium tax credit of \$486.00 for January 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

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).

- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 8, 2015 notice of eligibility determination is MODIFIED to state that you and your spouse were eligible for an advance premium tax credit of up to \$486.00 per month, effective as of January 1, 2015.

You are entitled to an advance premium tax credit of \$486.00 for January 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:

