



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: AP000000001503

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On February 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 13, 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 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).

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Issues

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

Did the Marketplace properly determine that, as of November 6, 2014, you and your husband were eligible to receive an advance premium tax credit of up to \$247.33 per month based on income data from federal and state sources, effective January 1, 2015?

Did the Marketplace properly determine that, as of January 13, 2015, you and your husband were eligible for up to \$543.00 per month in advance premium tax credit, cost sharing reductions, and the advance premium tax credit premium assistance program effective February 1, 2015?

Procedural History

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, you and your spouse qualify for a tax credit up to \$247.33 per month to help pay for your health coverage. It also stated that if you want to keep your present plan with Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25, and the information in your application is still accurate, the Marketplace will re-enroll you in the same plan for another year and you don't have to do anything more.

On December 13, 2014, the Marketplace issued a notice confirming the enrollment for you and your husband in Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25 with a maximum advance premium tax credit of \$247.32 per month effective January 1, 2015.

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On January 12, 2015, the Marketplace received your modified application for health insurance, which included an expected household income of \$40,300.00 for the 2015 tax year.

On January 13, 2015, the Marketplace issued an eligibility determination notice that you and your husband are conditionally eligible to receive an advance premium tax credit of up to \$543.00 per month and cost-sharing reductions effective February 1, 2015.

On January 20, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it began your increased financial assistance eligibility on February 1, 2015, and not January 1, 2015.

On February 20, 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 income documentation within the 15-day period, and the record was closed on March 7, 2015.

Findings of Fact

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

- 1) You testified that you called the Marketplace in June 2014 to report that you are no longer working.
- 2) You testified that you first received notice from your insurer, Empire Blue Cross Blue Shield ("Empire"), stating that the premium amount due in 2015 would be higher than what you were paying in 2014.
- 3) You testified that you likely received the notice from the Marketplace dated November 6, 2014, which stated that it was time to renew your health insurance coverage for 2015, but your husband may have discarded it. You further testified that you received other notices from the Marketplace but did not pay attention to them.
- 4) You testified that when you called to update your information in June 2014, you believed that you had renewed your coverage and, therefore, did not realize that you needed to update your application for 2015 coverage.
- 5) You testified that you paid your premium in January of approximately \$620.00.

- 6) You testified that you did not realize that your updated advance premium tax credit amount would be applied effective February 1, 2015 until you received a statement from Empire. You further testified that you called Empire to try and resolve the issue. Empire then told you that you needed to speak with the Marketplace to resolve the issue. You testified that when you called the Marketplace to resolve the issue, you were told that you needed to speak with Empire.
- 7) The record reflects that the Marketplace automatically renewed your coverage with Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25 on December 13, 2014 with an advance premium tax credit of up to \$247.32 per month, which was calculated based on state and federal data sources.
- 8) The record reflects that the Marketplace received your modified application for health insurance for 2015 on January 13, 2015, and your new financial assistance eligibility was effective February 1, 2015.
- 9) The record reflects that you and your husband are currently enrolled in Empire HMO 2000 Silver ST INN Pediatric Dental Dep 25 and your advance premium tax credit of \$543.00 per month is being applied to your monthly premium.

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 case, 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 (42 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 (42 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

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using the information provided in the annual renewal notice (42 CFR §155.335 (h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (42 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 make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (42 CFR §155.330 (f)(1)(ii)).

The Marketplace may determine that any change made after the 15th of any month will not be effective until the first of the following month (42 CFR §155.330 (f)(2)).

End of Tax Year Reconciliation

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

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse were eligible to receive an advance premium tax credit of up to \$247.33 per month effective January 1, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the information by which 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 states that, based on information from federal and state sources, you and your husband qualify to share a tax credit of up to \$247.33 per month, but cannot receive reductions in out-of-pocket costs because your income is above the allowable income limit of \$49,475.00.

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The notice also states that if you want to keep your present health plan for the next year, and the information in your application is still accurate, then the Marketplace has re-enrolled you and your husband in your current health plan for another year. It also states that if you need to make changes to your account, you must do so by December 15, 2014 for your new plan to be effective January 1, 2015.

The record reflects that the Marketplace did not receive any updated information from you by December 15, 2014. 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. Therefore, the Marketplace's November 6, 2014 eligibility redetermination is AFFIRMED.

The second issue is whether the Marketplace properly determined that your eligibility to receive an advance premium tax credit of up to \$543.00 per month and cost-sharing reductions was effective February 1, 2015.

On January 12, 2015, you updated the information in your Marketplace account.

On January 13, 2014, the Marketplace issued an eligibility determination notice based on the new information you provided, which stated that you and your husband are eligible to receive an advance premium tax credit of up to \$543.00 per month and cost-sharing reductions. This eligibility was effective February 1, 2015.

When an individual changes information in their application before the 15th of any month, the Marketplace must make the resulting redetermination effective the first day of the following month. Therefore, the Marketplace's January 13, 2015 eligibility determination is AFFIRMED.

However, you testified that you did not receive the renewal notices from the Marketplace because your husband may have thrown them out. You further testified that you were unaware that you would need to renew your application because you had updated your information in June 2014.

At the end of a tax year, a person who elects to take the advance premium tax credit 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. If you should have been entitled to an advance premium tax credit in the month of January, you may receive it in the form of a refund on your 2015 income tax return.

Decision

The November 6, 2014 eligibility determination is AFFIRMED.

The January 13, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: June 12, 2015

How this Decision Affects Your Eligibility

You and your spouse were eligible to share an advance premium tax credit of up to \$247.33 per month effective January 1, 2015.

You and your spouse are now eligible to share an advance premium tax credit of up to \$543.00 per month and eligible for cost-sharing reductions effective February 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
- By mail at:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 6, 2014 eligibility determination is AFFIRMED.

The January 13, 2015 eligibility determination is AFFIRMED.

You and your spouse were eligible to share an advance premium tax credit of up to \$247.33 per month effective January 1, 2015.

You and your spouse are now eligible to share an advance premium tax credit of up to \$543.00 per month and eligible for cost-sharing reductions effective February 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:

[REDACTED]
[REDACTED]
[REDACTED]