



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

Notice of Decision

Decision Date: July 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001528

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 2, 2015, your wife, acting as your authorized representative, appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 and January 22, 2015 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).

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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Issue

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

Did the Marketplace properly determine on December 22, 2014 that you and your wife were eligible to purchase a qualified health at full cost for 2015?

Did you and your wife have health coverage for January and February 2015, and if so, should the amount of advance premium tax credit stated in the January 22, 2015 notice be applied to the January 2015 premium for that coverage?

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, the Marketplace could not make a decision about whether or not you and your wife qualified for continuing financial help in paying for 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 and your wife were eligible to purchase a qualified health plan at full cost. You and your wife were not eligible to receive advance premium tax credits (APTC) because "Renewal period and income data [was] not

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available.” You and your wife were not eligible for cost-sharing reductions because you were ineligible to receive APTC. You and your wife 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 that stated, you and your wife were enrolled in your plan, with a premium responsibility of \$731.00. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage can begin. If you do not pay your premium, you might not have health coverage.

On January 21, 2015, information in your Marketplace account was updated, and the Marketplace made a preliminary eligibility determination stating that you and your wife were eligible for up to \$267.00 per month in APTC and, if you enrolled in a silver-level health plan, cost-sharing reductions. The start date for this eligibility was March 1, 2015.

Also on January 21, 2015, you spoke to the Marketplace’s Account Review Unit and appealed the preliminary eligibility determination insofar as it began your financial assistance eligibility on March 1, 2015, and not January 1, 2015.

On January 22, 2015 the Marketplace issued a notice of eligibility determination that stated you and your wife were newly conditionally eligible to receive up to \$267.00 in APTC per month, and to receive cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective March 1, 2015. You were directed to provide proof of income by April 23, 2015.

Also on January 22, 2015, the Marketplace issued an enrollment confirmation notice that stated as of January 21, 2015, you and your wife had been enrolled in a health plan with a premium responsibility of \$464.00. The notice further stated that if you had a premium responsibility, an invoice would be sent to you, and you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

On March 2, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. Your wife appeared at that hearing as your authorized representative. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) Your wife testified that you are only appealing the eligibility determinations as they apply to you and her.

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- 2) Your wife testified that you and she enrolled in a plan in May 2014.
- 3) Your wife testified, and the record reflects, that you elected to receive your notices from the Marketplace via regular mail in 2014.
- 4) There is no indication in your account that any notices sent to you have been returned to the Marketplace as undeliverable.
- 5) Your wife testified that you received a notice from the Marketplace asking you to update your information. However, you did not receive that notice until December 27, 2014, which was after the deadline for you to update your information.
- 6) Your wife testified that she called your health plan on December 30, 2014 and was told that she should not worry because the advance premium tax credit (APTC) amount from 2014 was going to rollover to 2015.
- 7) Your wife testified that on January 6, 2015 she saw that your health plan debited the full premium amount of \$731.00 premium from your bank account.
- 8) Your wife testified that she called your health plan again and she was told that they had never received updated information from the Marketplace.
- 9) Your wife testified that she called the Marketplace on January 6, 2015 to update your account. However, the customer service representative you spoke to did not submit the completed application at this time.
- 10) The record reflects that your application was updated on January 21, 2015.
- 11) The record reflects that if the Marketplace had received the updated application on January 6, 2015, your APTC eligibility would have been made effective February 1, 2015. You testified, and the record reflects, that the Marketplace changed your APTC eligibility to be effective February 1, 2015.
- 12) You testified that you are seeking your APTC amount to be made effective January 1, 2015.

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)).

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

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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).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your wife were eligible to enroll in a qualified health plan at full cost 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 stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you and your wife qualified 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.

The Marketplace did not received 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 you and your wife's eligibility for coverage beginning January 1, 2015. On December 22, 2014, the Marketplace issued a notice that stated you and your wife 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.

Although your wife credibly testified that you did not timely receive a notice asking your household to update their information with the Marketplace, the Marketplace did send out that notice and there is no evidence that any notices sent to you were returned as undeliverable.

Your wife also testified that when she did receive a notice in late December 2014 that you would not be receiving financial assistance, she called your health plan and was told to not worry about it because the APTC from 2014 would just roll

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over to 2015. Relying on this information, she did nothing further at that time to update the account.

The information provided to your wife by your health plan was incorrect. The Marketplace must confirm your eligibility every year, and your health plan is not authorized to make eligibility determinations on behalf of the Marketplace.

Therefore, the December 22, 2014 eligibility determination must be AFFIRMED.

The second issue is whether you and your wife had coverage through your plan continuing in January 2015.

Your wife testified that on January 6, 2015, she saw that the health plan had direct debited \$731.00 to cover the premium responsibility for the month of January. This payment resulted in your coverage continuing in effect as of January 1, 2015. She called the Marketplace on January 6, 2015, but no changes were made to your account at that time.

When an individual changes information in their application before the 15th of any month, the Marketplace must make the redetermination that results from that change effective the first day of the following month. Therefore, the updates to your account should have been made on February 1, 2015, and you should have received APTC effective February 1, 2015.

However, when APTC is recalculated mid-year, the Marketplace is required to prorate monthly amounts to reflect APTC that has already been received, to ensure that the APTC you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2015 tax year. It appears that the Marketplace did not do this. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received APTC for the entire 12 months of the year.

Therefore, the matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the 11 months of 2015.

Decision

The December 22, 2014 eligibility determination is AFFIRMED

The January 22, 2015 eligibility determination notice is MODIFIED to state you and your wife are newly conditionally eligible to receive an advance premium tax credit (APTC), effective February 1, 2015, at a tentative rate of \$267.00 per month, and, if enrolled in a silver level health plan, to receive cost-sharing reductions.

However, the matter is returned to the Marketplace for a recalculation of the APTC you are entitled to from February 1, 2015 forward, by dividing your annual expected tax credit by 11 months of 2015, instead of 12.

Effective Date of this Decision: July 8, 2015

How this Decision Affects Your Eligibility

You and your wife are enrolled in your plan effective January 1, 2015.

You and your wife are tentatively eligible for up to \$267.00 in advance premium tax credit and cost-sharing reductions, effective February 1, 2015; however, this amount may increase as a result of the recalculation.

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 22, 2014 eligibility determination is **AFFIRMED**

The January 22, 2015 eligibility determination notice is **MODIFIED** to state you and your wife are newly conditionally eligible to receive an advance premium tax credit (APTC), effective February 1, 2015, at a tentative rate of \$267.00 per month, and, if enrolled in a silver level health plan, to receive cost-sharing reductions.

However, the matter is returned to the Marketplace for a recalculation of the APTC you are entitled to from February 1, 2015 forward, by dividing your annual expected tax credit by 11 months of 2015, instead of 12.

You and your wife are enrolled in your plan effective January 1, 2015.

You and your wife are tentatively eligible for up to \$267.00 in APTC and cost-sharing reductions, effective February 1, 2015; however, this amount may increase as a result of the recalculation.

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]