



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

Notice of Decision

Decision Date: July 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001533

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On February 26, 2015, you 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).

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001533

[REDACTED]
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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 that you were not eligible for advance premium tax credits effective January 1, 2015?

Did the Marketplace properly determine that, as of January 22, 2015, you were eligible to receive an advance premium tax credit of up to \$249.00 per month and cost sharing reductions effective March 1, 2015?

Procedural History

On November 6, 2014, the Marketplace sent you a notice stating it was time to renew your health insurance coverage for 2015. The notice further stated that, based on federal and state data sources, the Marketplace could not make a decision about whether or not you qualify for financial help paying for your health coverage. You were requested to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end.

Your account was not updated by December 20, 2014.

On December 22, 2014 the Marketplace issued a notice of eligibility determination stating that you were newly eligible to purchase a qualified health plan at full cost. It further stated you were not eligible to receive advance premium tax credits because "renewal period and income data [was] not available." The notice stated that you were not eligible for cost-sharing reductions

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because you were ineligible to receive advance premium tax credits. This eligibility was effective January 1, 2015.

On December 23, 2014, the Marketplace issued a notice confirming your enrollment with PrimarySelect Silver NS INN Dep25 Acupuncture, with a premium responsibility of \$428.36. The notice further stated that your health insurance coverage could start as early as January 1, 2015 if you pay your first month's premium.

On January 21, 2015, the information in your Marketplace account was updated and the Marketplace prepared a preliminary determination in your case stating that you are eligible to enroll in a qualified health plan through the Marketplace and receive an advance premium tax credit of up to \$249.00 per month. It also stated you are eligible for cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective March 1, 2015.

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

On January 22, 2015, the Marketplace issued a notice of eligibility determination reflecting the January 21, 2015 preliminary eligibility determination.

On February 26, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. 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) The record reflects that, as of March 20, 2014, you elected to receive all information from the New York Marketplace electronically.
- 2) The record reflects that your Marketplace account was not updated by December 20, 2014. You testified, and the record reflects, that your Marketplace account was updated on January 21, 2015.
- 3) The record reflects that the Marketplace system automatically enrolled you in PrimarySelect Silver NS INN Dep25 Acupuncture on December 22, 2014, with coverage effective January 1, 2015.
- 4) You testified that you did not receive any notices from the Marketplace indicating that it was time to renew your health insurance.

- 5) You testified that your email account was hacked and you have experienced technical issues as a result.
- 6) You testified that you believed your health insurance enrollment would be automatically renewed for 2015.
- 7) You testified that you realized you were enrolled in a full cost qualified health plan in January 2015, after you received a premium payment invoice for approximately \$744.00. You testified that you paid the premium for January 2015 coverage and may have paid the premium for February 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 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 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)).

Qualified Health Plan (QHP) coverage takes effect on January 1, 2015 for plans selected in the Marketplace on or before December 20, 2014 (45 CFR §155.410(f)(1); NY State of Health Extends December 15 Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-extends-december-15-enrollment-deadline> [last updated December 12, 2014]).

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 second 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).

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were not eligible for advance premium tax credits (APTC) and cost-sharing reductions 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. This notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualify for financial help paying for your health coverage. You were requested to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end.

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail, and you credibly testified that you did not receive the November 6, 2014 renewal notice asking you to update your information with the Marketplace and that you first became aware you were enrolled in a qualified health plan (QHP) at full cost was in January 2015.

Therefore, because you did not receive the required notice regarding the need to annual renew your enrollment, and you have subsequently been found eligible for APTC, we must assume that the same information used to reach this subsequent determination would have been used had you received timely notice to update your account.

Therefore, the January 22, 2015 notice of eligibility redetermination is MODIFIED to state you are newly eligible to receive up to \$249.00 in APTC per month, and, if you enrolled in a silver level health plan, to receive cost-sharing reductions. This eligibility is effective January 1, 2015.

Decision

The December 22, 2014 eligibility determination is AFFIRMED.

The January 22, 2015 eligibility determination is MODIFIED to state you are newly eligible to receive up to \$249.00 in advance premium tax credit per month, and, if you enrolled in a silver level health plan, eligible to receive cost-sharing reductions. This eligibility is effective January 1, 2015.

Effective Date of this Decision: July 22, 2015

How this Decision Affects Your Eligibility

You are eligible to receive an advance premium tax credit of up to \$249.00 per month and cost-sharing reductions effective January 1, 2015, if you were enrolled in a qualified health plan by 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
- By mail at:
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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 is MODIFIED to state you are newly eligible to receive up to \$249.00 in advance premium tax credit per month, and, if you enrolled in a silver level health plan, eligible to receive cost-sharing reductions. This eligibility is effective January 1, 2015.

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You are eligible to receive an advance premium tax credit of up to \$249.00 per month and cost-sharing reductions effective January 1, 2015, if you were enrolled in a qualified health plan by 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:

[REDACTED]
[REDACTED]
[REDACTED]