



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: AP000000001537

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Ms. [REDACTED]

On February 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 5, 2014 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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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 an advance premium tax credit of up to \$292.00 per month and eligible for cost-sharing reductions, as of January 23, 2015?

Procedural History

The Marketplace received your initial application for health insurance on December 4, 2014.

On December 5, 2014, the Marketplace issued an eligibility determination notice that you are eligible to receive an advance premium tax credit of up to \$292.00 per month and cost sharing reductions.

On January 21, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it did not approve an advance premium tax credit of more than \$292.00 per month.

On February 23, 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 evidence within 15 days and the record was closed on March 10, 2015.

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Findings of Fact

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

- 1) You testified, and the record reflects that you are the only person in your household and you expect to file your 2015 federal income taxes as single.
- 2) According to the December 4, 2014 application, and your supporting testimony, you expect to earn approximately \$19,734.00 for the 2015 tax year, before taxes are deducted.
- 3) You testified that you do not expect to take any deductions for the 2015 tax year.
- 4) You testified, and the record reflects, that you currently reside in ██████████ County, New York.
- 5) You testified that it is difficult for you to afford a health insurance premium after paying your monthly living expenses.

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 applicable 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

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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).

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).

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 still the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

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 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 her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you are eligible for an advance premium tax credit (APTC) of up to \$292.00 per month.

In the application that was submitted on December 4, 2014, you attested to an expected household income of \$19,734.00 before taxes are deducted. The eligibility determination relied upon that information.

The record reflects that you are the only person in your tax household.

According to the December 4, 2014 application, you reside in █████ County, where the second lowest cost silver plan available in 2015 for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$19,734.00 is 169.1% of the 2014 federal poverty level (FPL) for a one-person household. At 169.1% of the FPL, the expected contribution to the cost of the health insurance premium is 4.91% of income, or \$80.68 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 your county (\$371.75 per month) minus your expected contribution (\$80.68 per month), which equals \$291.07. Rounded to the nearest dollar, the Marketplace incorrectly determined your APTC to be \$292.00 per month, instead of \$291.00 per month.

Since the premium tax credit that was authorized (\$292.00 per month) is not materially different than the credit that should be authorized (\$291.00 per month), that difference is properly reconciled on a federal individual income tax return.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$19,734.00 is 169.1% of the 2014 FPL, the Marketplace correctly found you eligible for cost-sharing reductions.

Therefore, the December 5, 2015 eligibility determination is AFFIRMED.

Decision

The December 5, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: June 12, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain eligible to receive an advance premium tax credit of up to \$292.00 per month.

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).

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 5, 2015 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility. You remain eligible to receive an advance premium tax credit of up to \$292.00 per month.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]