



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

Notice of Decision

Decision Date: July 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001539

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 23, 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 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001539

[REDACTED]
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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 you were eligible to receive an advance premium tax credit of up to \$163.00 per month and eligible for cost-sharing reductions, effective February 1, 2015?

Did the Marketplace properly not determine your spouse's eligibility as of December 22, 2014?

Procedural History

The Marketplace received your application for health insurance on December 22, 2014, in which you indicated that you were seeking health insurance for yourself and your two children, but not your spouse.

On December 23, 2014, the Marketplace issued a notice of eligibility determination based on your December 22, 2014 application. It said that you are eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$163.00 per month; and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). This eligibility was effective February 1, 2015. The notice further stated that you were not eligible for Medicaid because your income was over the allowable income limit for that program. Your two daughters were found eligible for coverage under Child Health Plus (CHP) at a reduced premium rate of \$9.00 per month effective February 1, 2015. No determination was issued with respect to your spouse's eligibility. This determination was based, in part, on an annual household income of \$51,528.00.

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On January 21, 2015, you spoke with the Marketplace's Account Review Unit to appeal the January 23, 2015 eligibility determination insofar as you were found eligible for an APTC of no greater than \$163.00 per month, and insofar as your spouse was not permitted to enroll in a plan with you through the Marketplace.

On February 24, 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) You testified that you are living with your spouse and two daughters.
- 2) You testified, and your application indicates, that you expect to file your 2015 U.S. Income taxes jointly with your spouse and claim your two daughters as dependents.
- 3) Your December 22, 2014 application indicated that you were seeking health insurance for yourself and your two daughters. When this application asked whether you were seeking insurance for your spouse, you answered "No."
- 4) You testified, however, that you were seeking health insurance for your spouse as well since you wanted to enroll in a plan with him.
- 5) You testified that your spouse is currently enrolled in Medicare, and that he wasn't able to get insurance through the Marketplace. You further testified that he was relegated to purchasing a supplemental plan outside of the Marketplace to cover his additional medical expenses resulting, in part, from his ALS diagnosis, and that this plan costs approximately \$295.00 per month and does not cover vision or hearing care.
- 6) You reside in Tompkins County, New York.
- 7) In your December 22, 2014 application, you attested that your spouse receives approximately \$4,293.00 per month in Social Security benefits, and that you expected this level of benefits to remain consistent during 2015.
- 8) You testified that you receive a nominal amount income from your business through [REDACTED].

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

- 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 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 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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 first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Income

A tax filer's household income includes the modified adjusted gross income (MAGI) of all the individuals in the taxpayer's family who are required to file a federal tax return for the taxable year (26 CFR § 1-36B-1(e)(1)).

Social Security benefits under Title II, taxable and nontaxable, are included when determining MAGI (see NY Soc. Serv. Law § 366(1)(a), (b)).

Marketplace Eligibility Determinations

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you are eligible to receive an advance premium tax credit (APTC) of up to \$163.00 per month and eligible for cost-sharing reductions (CSR).

In the application that was submitted on December 22, 2014, you attested to an expected yearly income of \$51,528.00, which included (1) \$51,516.00 (\$4,293.00 x 12 months) in total Social Security benefits your spouse expects to receive during 2015, and (2) a nominal amount of earned income you expect to receive from [REDACTED]. Since your spouse is required to file a tax return, your spouse's Social Security benefits were properly included within your annual household income when the Marketplace relied upon that information in issuing the December 23, 2014 eligibility determination.

According to the record, you are in a four-person tax household since you expect to file your 2015 taxes jointly with your spouse and claim your two daughters as dependents.

You reside in Tompkins County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$459.45 per month.

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An annual household income of \$51,528.00 is 216.05% of the 2014 federal poverty level (FPL) for a four-person household. At 216.05% of the FPL, the expected contribution to the cost of the health insurance premium is 6.90% of income, or \$296.29 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$459.45 per month) minus your expected contribution (\$296.29 per month), which equals \$163.16 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly found you eligible for APTC of up to \$163.00 per month.

CSR is available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 216.05% of the 2014 FPL, you were correctly found to be eligible for CSR.

The final issue is whether the Marketplace made a determination on your spouse's eligibility as of December 22, 2014.

Upon receiving an application, the Marketplace must determine that person's eligibility promptly and without undue delay. The credible evidence of the record indicates that while you requested insurance for you and your two daughters, you attested within your application that your spouse was not seeking health insurance. Accordingly, the Marketplace correctly did not make a determination on whether your spouse's eligibility to enroll in a QHP or eligibility for financial assistance.

Since the December 23, 2014 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for an APTC up to \$163.00 per month and, if you selected silver-level plan, eligible for CSR, and that no decision was rendered on your spouse's eligibility, it is correct and is AFFIRMED.

Based upon your credible testimony that you were seeking to have your spouse's eligibility determined by the Marketplace insofar as you were seeking to have him enrolled in a plan with you, there is a sufficient basis to send your case back for redetermination. However, we note that based on a revised application that was submitted to the Marketplace on April 21, 2015, your entire household, including your spouse, was found eligible for Medicaid, effective April 1, 2015.

Accordingly, we find that returning your case to the Marketplace for a further redetermination would be of limited value.

Decision

The December 23, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 10, 2015

How this Decision Affects Your Eligibility

You were eligible to receive an advance premium tax credit of up to \$163.00 per month, and if you select a silver-level plan, eligible for cost-sharing reductions, effective February 1, 2015.

This Decision has no effect on any subsequent determinations issued by the Marketplace on or after December 23, 2014, including the April 22, 2015 determination finding your entire household eligible for Medicaid, effective April 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 23, 2014 eligibility determination is AFFIRMED.

You were eligible to receive an advance premium tax credit of up to \$163.00 per month, and if you select a silver-level plan, eligible for cost-sharing reductions, effective February 1, 2015.

This Decision has no effect on any subsequent determinations issued by the Marketplace on or after December 23, 2014, including the April 22, 2015 determination finding your entire household eligible for Medicaid, effective April 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]