



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

Notice of Decision

Decision Date: June 26, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001549

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

Dear [REDACTED],

On March 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s January 22, 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 notice.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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Issues

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that, as of January 22, 2015, you were eligible for up to \$288.00 per month in advance premium tax credit and cost-sharing reductions effective March 1, 2015?

Procedural History

On November 6, 2014, the Marketplace issued a notice stating that NY State of Health did not have enough information from state and federal data sources to determine if you qualify for financial help paying for your health coverage.

On December 22, 2014, the Marketplace issued an eligibility determination stating that you are eligible to purchase a qualified health plan at full cost through NY State of Health effective January 1, 2015.

On December 23, 2014, the Marketplace issued a notice stating that you have been enrolled in Primary Select Silver NS INN Dep25 Acupuncture effective January 1, 2015.

On January 21, 2015, you reapplied for health insurance through the Marketplace. On January 22, 2015 the Marketplace issued an eligibility determination notice stating you are eligible for up to \$288.00 per month in advance premium tax credit and cost sharing reductions with a start date of March 1, 2015.

On January 22, 2015, you spoke with the Marketplace's Account Review Unit and requested an appeal insofar as the effective date of advance premium tax credits.

On March 2, 2015, you had a scheduled hearing with a Hearing Officer from the Marketplace's Appeals Unit. You requested an adjournment until March 13, 2015.

On March 13, 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 are only applying for health insurance through the Marketplace for yourself (Testimony; 1/21/2015 Marketplace application).
- 2) You originally applied for insurance through the Marketplace on February 28, 2014, and you chose to receive all information from NY State of Health electronically (3/1/2014 Marketplace notice).
- 3) You testified that you have not received any notices from the Marketplace, including a notice to renew your Marketplace application in order to receive 2015 financial assistance.
- 4) The Marketplace issued a notice stating that NY State of Health did not have enough information from state and federal data sources to determine if you qualify for financial help paying for health coverage. The notice states that if you do not update your account by December 15, 2014, the financial assistance you are getting may end (11/6/2014 Marketplace notice).
- 5) You testified you first became aware that you were not receiving financial assistance for your health coverage through the Marketplace when Health Republic Insurance of New York automatically withdrew approximately \$750.00 from your bank account for your January and February health insurance premiums.
- 6) You reapplied for health insurance through the Marketplace on January 21, 2015. You were determined eligible for up to \$288.00 per month in advance premium tax credit and cost sharing reductions effective March 1, 2015 (1/22/2015 Marketplace notice).

- 7) You testified that you want to be reimbursed the amount you were overcharged for your January and February 2015 health insurance premiums based on the amount of tax credits that you were determined eligible for on January 21, 2015.
- 8) You testified that you used your Marketplace health insurance, Health Republic Insurance of New York, on February 17, 2015.
- 9) You testified that you contacted Health Republic Insurance of New York in December 2014 to end automatic withdrawals from your bank account. However, the 2015 January and February health insurance premiums were still automatically withdrawn.

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 any change made after the 15th of any month will not be effective until the

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first of the next following month (45 CFR §155.330 (f)(2)), and it has chosen to do so.

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, 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 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. The notice state 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 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.

Although you stated that you had not received the notices, our records indicate that you elected to receive Marketplace notices electronically.

On December 15, 2014, the Marketplace had not received any updated information from you. On December 22, 2014, the Marketplace issued a notice that stated you 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 because the renewal period and income data was not available.

On January 21, 2015, you updated the information in your Marketplace account. This resulted in a January 22, 2015 eligibility determination notice that stated you were newly eligible to receive up to \$288.00 in advance premium tax credits and cost-sharing reductions effective March 1, 2015.

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 Marketplace's January 12, 2015 eligibility determination is AFFIRMED.

However, 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 a greater advance premium tax credit for 2015 than what you actually would have been entitled to, there may be compensation for this reflected on your 2015 income tax return.

Decision

The January 22, 2015 eligibility determination stating that you were eligible for up to \$288.00 per month in advance premium tax credit and cost sharing reductions effective March 1, 2015 is AFFIRMED.

Effective Date of this Decision: June 26, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit and eligible for cost-sharing reductions effective March 1, 2015.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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.

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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 January 22, 2015, eligibility determination is AFFIRMED.

You remain eligible to receive an advance premium tax credit and eligible for cost-sharing reductions effective March 1, 2015.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

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