



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

Notice of Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001552

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 and January 13, 2015 eligibility determinations.

The attached 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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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 purchase a qualified health plan at full cost, effective January 1, 2015?

Did the Marketplace properly determine that you were newly eligible for financial assistance no earlier than February 1, 2015?

Procedural History

You were enrolled in a health insurance plan through the Marketplace in 2014.

On November 6, 2014, the Marketplace issued a notice stating that 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 you 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 20, 2014.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated you were newly eligible to purchase a qualified health plan at full cost. You were not eligible to receive an advance premium tax credit (APTC) because "renewal period and income data [was] not available." You were not eligible for cost-sharing reductions because you were ineligible to receive APTC. You were not eligible for Medicaid because your household income was in

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excess of that allowed by that program. This eligibility was effective January 1, 2015.

On December 24, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 22, 2014, you were enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep25 with a premium responsibility of \$379.79. The notice further stated that if you had a premium responsibility, you would have to pay the monthly premium before your coverage could begin; it could become effective as early as January 1, 2015. If you did not pay your premium, you might not have health coverage.

On January 12, 2015, information in your Marketplace account was updated.

On January 13, 2015, the Marketplace issued an eligibility determination notice that stated you were newly eligible to receive up to \$296.00 in APTC and to receive cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective February 1, 2015.

Also on January 13, 2015, the Marketplace issued an enrollment confirmation notice that stated as of January 12, 2015 you were enrolled in Fidelis Care Silver, with a premium responsibility of \$83.79. 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 22, 2015, you spoke to the Marketplace's Account Review Unit and appealed the January 13, 2015 eligibility determination insofar as eligibility to receive up to \$296.00 in APTC could begin no earlier than February 1, 2015.

On March 3, 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 elected to receive notices from the Marketplace through the mail, and no notices have been returned to the Marketplace as undeliverable.
- 2) You testified that you received the November 6, 2014 notice from the Marketplace requesting that you update your information by December 15, 2014, but that you had problems relating to having two accounts and were unable to update your account due to technical issues with accessing your account.

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- 3) You testified that you understood that you remained enrolled under Fidelis Care Silver during 2015, but that when you contacted Fidelis care in early February 2015 to make sure everything was processed properly, you were made aware that January's premium amount was the full premium cost, without any tax credit amount.
- 4) You testified that you feared you would be dropped from your coverage so, at the suggestion of a Fidelis Care representative, you paid the premium amounts for the months of January and February 2015. You further testified that you paid these amounts in early February 2015.
- 5) You testified that you were seeking to have the \$296.00 advance premium tax credit amount applied to your January 2015 coverage since it was a financial burden to pay the full amount for that month.

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)).

The deadline to update your account for changes to be in effect by January 1, 2015 was extended to December 20, 2014 (45 CFR §155.410(f)(1); NY State of Health Extends December 15 Enrollment Deadline,

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

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 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 first issue is whether the Marketplace properly determined that you 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.

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On November 6, 2014, the Marketplace issued annual eligibility redetermination notices in your case. Those notices state that based on information from federal and state sources, the Marketplace could not make a decision about whether 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.

The Marketplace had not received any updated information from you by the extended deadline of December 20, 2014. Therefore, the Marketplace was required to use the information that was contained in the November 6, 2014 notice in order to determine your eligibility for coverage beginning January 1, 2015.

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 (APTC) because renewal period and income data was not available.

This finding was necessitated by the federal regulations noted above and, therefore, the Marketplace's December 22, 2014 eligibility determination is **AFFIRMED**.

The second issue is whether you were eligible for financial assistance earlier than February 1, 2015.

On January 13, 2015, the income information in your Marketplace account was modified and you were determined eligible for an APTC of up to \$296.00 per month with an eligibility effective date of February 1, 2015.

For the 2015 plan year, an enrollee in a qualified health plan (QHP) in the Marketplace between the beginning of open enrollment and December 20, 2014 is guaranteed a coverage effective date of January 1, 2015. An enrollee who selected a plan between December 21, 2014 and January 15, 2015, is guaranteed a coverage effective date of February 1, 2015.

You testified that you did receive the notice requesting that you need to update your account information by December 15, 2014; however, you were unable to do so due to technical issues with accessing your account.

However, the deadline in which to respond to the November 6, 2014 notice was extended to December 20, 2014. There is also no indication that you attempted to call the Marketplace in order to update your account, nor is there evidence of how often you attempted to update your account on-line before the deadline. Instead, you failed to update your account until January 12, 2015, almost a month after the deadline you were initially given.

Therefore, the Marketplace properly found that your APTC would not resume until 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 monthly amount of APTC for which you are eligible for 2015 once your eligibility for APTC resumed for a partial year.

Decision

The December 22, 2014 and eligibility determination is **AFFIRMED**.

The January 13, 2015 eligibility determination is **MODIFIED** to reflect that although the Marketplace correctly found that you were eligible to receive an advance premium tax credit (APTC), no earlier February 1, 2015, it incorrectly listed the monthly amount you could receive for the remainder of the year. Therefore, the monthly amount of \$296.00 is tentative at this time, pending a redetermination of the amount you would be entitled to, having been enrolled in insurance for the full year, but only receiving APTC during part of that year.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

You continue to be entitled to apply the \$296.00 in advance premium tax credit (APTC) toward your premium effective February 1, 2015; however, this amount may increase after a redetermination is made.

Please be aware, however, that this amount may decrease in 2016, when your entitlement to APTC is once again calculated based on a full year.

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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- By fax: 1-855-900-5557

Summary

The December 22, 2014 and eligibility determination is **AFFIRMED**.

The January 13, 2015 eligibility determination is **MODIFIED** to reflect that although the Marketplace correctly found that you were eligible to receive an advance premium tax credit (APTC), no earlier February 1, 2015, it incorrectly listed the monthly amount you could receive for the remainder of the year.

Therefore, the monthly amount of \$296.00 is tentative at this time, pending a

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redetermination of the amount you would be entitled to, having been enrolled in insurance for the full year, but only receiving APTC during part of that year.

You continue to be entitled to apply the \$296.00 in APTC toward your premium, effective February 1, 2015; however, this amount may increase after a re-determination is made.

PLEASE BE AWARE, however, that the APTC amount you receive per month in 2016 may be less, when your entitlement to APTC is once again calculated based on a full year.

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]