



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: AP000000001581

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 21, 2014 and January 24, 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 Code of Federal Regulation (CFR) 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).

This page intentionally left blank.



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

Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001581

[REDACTED]
[REDACTED]
[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine on December 21, 2014 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 eligible to receive up to \$299.00 per month in advance premium tax credits, effective no earlier than March 1, 2015?

Procedural History

You were enrolled in a plan through the Marketplace that became effective in 2014.

On November 6, 2014, the Marketplace issued a renewal 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 21, 2014, the Marketplace issued an eligibility redetermination notice that stated you were newly eligible to purchase a qualified health plan at

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).

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

On December 23, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 22, 2014, you were enrolled in a Health Republic PrimarySelect PCMH Silver plan with a premium responsibility of \$404.16. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

On December 25, 2014, the Marketplace issued a notice of disenrollment which stated that your coverage under the Health Republic PrimarySelect EPO Silver plan would end effective December 31, 2014.

On January 22, 2015, the Marketplace issued a notice confirming your request of January 21, 2015 to end your coverage under the Health Republic PrimarySelect PCMH Silver plan. The notice further stated that your coverage under the Health Republic PrimarySelect PCMH Silver plan would end effective January 31, 2015.

On January 23, 2015, information in your Marketplace account was updated.

That same day, the Marketplace made a preliminary eligibility determination based on your January 23, 2015 application. It stated that you were eligible to receive an APTC of up to \$299.00 per month and eligible for cost-sharing reductions (CSR), both effective March 1, 2015. This preliminary determination was based, in part, on an annual household income of \$19,015.00.

Also on January 23, 2015, you spoke to the Marketplace’s Account Review Unit and appealed the December 21, 2014 eligibility determination insofar as you were found ineligible for an APTC as of January 1, 2015 to help with paying for your health insurance.

On January 24, 2015, the Marketplace issued an eligibility determination notice stating that you were eligible to enroll in a qualified health plan (QHP); eligible to receive an APTC of up to \$299.00 per month; and, if you selected a silver-level plan, eligible for CSR, all effective March 1, 2015. Again, this eligibility determination was issued, in part, based on an annual household income of \$19,015.00.

On March 2, 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.

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).

Findings of Fact

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

- 1) You were enrolled under the Health Republic PrimarySelect EPO Silver plan for most of 2014, and had been receiving an advance premium tax credit (APTC) of \$267.00 per month.
- 2) You testified that you received the November 6, 2014 notice from the Marketplace requesting that you update your account by December 15, 2014 in order to redetermine your eligibility for financial assistance, but you failed to do so.
- 3) You switched to the Health Republic PrimarySelect PCMH Silver plan for coverage beginning January 1, 2015.
- 4) You testified that you only became aware that you had not been receiving a tax credit for your coverage under the Health Republic PrimarySelect PCMH Silver plan in 2015 when approximately \$700.00 had been deducted from your checking account. You further testified that you had expected a \$98.00 charge for the January 2015 premium amount, which would have been consistent with the monthly premium payments during 2014.
- 5) You testified that you disenrolled from the Health Republic PrimarySelect PCMH Silver plan on or about January 21, 2015, and that you understood that your coverage was terminated as of January 31, 2015.
- 6) You further testified that you were seeking a reimbursement of approximately \$276.00, reflecting the portion of the January 2015 premium you paid as a result of not having been credited for a tax credit for that month's coverage.

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-

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).

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)). 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(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). (The rules specified in 45 CFR § 155.330(f) are not pertinent here.)

The deadline for coverage to go into effect by January 1, 2015 for plans selected in the Marketplace was extended to 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 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)).

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

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).

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 only 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.

On November 6, 2014, the Marketplace issued annual eligibility redetermination notices in your case. That 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 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.

You stated that you had received the notices, but you failed to update your account by the December 20, 2014 extended deadline.

The Marketplace had not received any updated information from you by the time of the December 20, 2014 extended deadline. 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 21, 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 the Marketplace determined, after your account was updated, that your APTC did not become effective until March 1, 2015.

You updated your account on January 23, 2015. Because this was after the 15th of the month, the Marketplace properly determined that your new eligibility for APTC would not be effective until March 1, 2015.

However, when APTC is recalculated mid-year, as has happened here, the Marketplace is required to prorate current and future monthly APTC amounts to reflect any 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.

Additionally, if you will not have had coverage for the whole of 2015, this will also serve to decrease the amount of annual premium tax credit to which you will be entitled.

Therefore, the matter is returned to the Marketplace to determine the prorated amount of premium tax credit you are currently expected to be entitled when you file your tax return for 2015, and then to recalculate the monthly APTC to which you will be entitled for the remaining months of the year.

Decision

The December 21, 2014 eligibility determination is AFFIRMED.

The January 24, 2015 eligibility determination is MODIFIED to reflect that you are tentatively eligible to receive up to \$299.00 per month in advance premium tax credit (APTC), and AFFIRMED in all other respects. Your case is returned to the Marketplace to determine the prorated amount of premium tax credit you are currently expected to be entitled when you file your tax return for 2015, and then to recalculate the month APTC to which you will be entitled for the remaining months of the year.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

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).

You remain tentatively eligible to receive up to \$299.00 per month in advance premium tax credit (APTC) effective March 1, 2015; however, your case is being returned to the Marketplace for a recalculation and this amount may change. Be aware, however, that the amount of monthly APTC to which you are entitled is very likely to change in 2016, when your total premium tax credit will be divided over a whole year, instead of only part of a 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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).

Summary

The December 21, 2014 eligibility determination is AFFIRMED.

The January 24, 2015 eligibility determination is MODIFIED to reflect that you are tentatively eligible to receive up to \$299.00 per month in advance premium tax credit (APTC), and AFFIRMED in all other respects. Your case is returned to the Marketplace to determine the prorated amount of premium tax credit you are currently expected to be entitled when you file your tax return for 2015, and then to recalculate the monthly APTC to which you will be entitled for the remaining months of the year.

You were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

You remain tentatively eligible to receive up to \$299.00 per month in APTC effective March 1, 2015; however, your case is being returned to the Marketplace for a recalculation and this amount may change.

Be aware, however, that the amount of monthly APTC to which you are entitled is very likely to change in 2016, when your total premium tax credit will be divided over a whole year, instead of only part of a 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]