



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

Notice of Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001589

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

Dear [REDACTED],

On February 27, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 27, 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 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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[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that you were eligible for an advance premium tax credit of up to \$118.00 per month, effective March 1, 2015?

Procedural History

On January 26, 2015, the Marketplace prepared two preliminary eligibility determinations in your case, based on two modifications to your account. The first stated that you were eligible to enroll in a qualified health plan and receive an advance premium tax credit (APTC) of up to \$111.00 per month. The second stated you were eligible for up to \$118.00 in APTC.

Also on January 26, 2015, you spoke with the Marketplace's Account Review Unit and appealed the second preliminary determination insofar as it did not approve an APTC of more than \$118.00 per month.

On January 27, 2015, the Marketplace issued an eligibility determination notice that stated you were eligible for up to \$118.00 in APTC.

On February 25, 2015, you were scheduled to have a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You requested an adjournment and it was granted. Your hearing was adjourned to February 27, 2015.

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On February 27, 2015, you waived formal notice of the rescheduled hearing and 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 currently live with your brother and your godfather.
- 2) You testified that you expect to file your 2015 federal income tax return as single. You further testified that though you have a son and a daughter whom you provide for, you do not expect to claim any dependents for the 2015 tax year.
- 3) According to the January 26, 2015 application, you expect to earn approximately \$33,350.00 for the 2015 tax year, before taxes are deducted. You further testified that though your income fluctuates, the income provided in your application is an accurate reflection of your expected income for the year.
- 4) You testified that you do not expect to take any deductions for the 2015 tax year.
- 5) You testified that you reside in ██████ County, New York.

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)).

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

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Legal Analysis

The issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$118.00 per month.

In the application that was submitted on January 26, 2015, you attested to an expected household income of \$33,350.00 before taxes are deducted. The eligibility determination relied upon that information.

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You plan to file your 2015 federal income tax return as single and claim no dependents. Therefore, you are in a one-person household.

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 \$33,350.00 is 285.78% of the 2014 federal poverty level (FPL) for a one-person household. At 285.78% of the FPL, the expected contribution to the cost of the health insurance premium is 9.14% of income, or \$254.02 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 (\$254.02 per month), which equals \$117.73. Rounded to the nearest dollar, the Marketplace correctly determined your APTC to be \$118.00 per month.

Therefore, the January 27, 2015 eligibility determination is AFFIRMED.

Decision

The January 27, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: June 16, 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 \$118.00 per month to be applied toward your monthly health insurance premiums.

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.

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).

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
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- By fax: 1-855-900-5557

Summary

The January 27, 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 \$118.00 per month to be applied toward your monthly health insurance premiums.

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] [REDACTED]
[REDACTED]