



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

Notice of Decision

Decision Date: July 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001597

[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 December 22, 2014 and January 27, 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 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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Issue

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

Did the Marketplace properly determine that you and your son's eligibility for advance premium tax credits (APTC) and cost-sharing reductions (CSR) was effective February 1, 2015?

Procedural History

On January 25, 2014, the Marketplace issued a notice that stated you and your oldest son were eligible to enroll in a qualified health plan and receive tax credits to help pay for your insurance. The notice further stated that you both chose the PrimarySelect Gold Plan as your health plan.

On November 6, 2014, the Marketplace issued a notice that stated it was time to renew your household's 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 or not you or your oldest son 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 15, 2014.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated you and your oldest son were eligible to purchase a qualified health plan at full cost. You and your son were not eligible to receive advance premium tax credits (APTC) because "renewal period and income data [was] not

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available.” You and your son were not eligible for cost-sharing reductions because you were ineligible to receive APTC. You and your son 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 24, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 24, 2014, you and your son were enrolled in PrimarySelect Gold with a premium responsibility of \$850.81. 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 31, 2014, information in your Marketplace account was updated.

On January 1, 2015, the Marketplace issued a notice that stated you and your son might be eligible for health insurance but more information was needed. Specifically, information on your household’s income was requested.

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 and your oldest son were eligible to receive up to \$479.00 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 and your oldest son were enrolled in PrimarySelect PCMH Silver with a premium responsibility of \$208.06. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin as early as February 1, 2015. If you did not pay your premium, you might not have health coverage.

On January 26, 2015, you spoke to the Marketplace’s Account Review Unit and appealed the eligibility determinations insofar as they began your financial assistance eligibility on February 1, 2015, and not January 1, 2015.

On February 27, 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 married and have three children.

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- 2) You testified that you are only appealing the eligibility determination of yourself and your oldest child.
- 3) You testified, and the record reflects, that you are to receive notices from the Marketplace via regular mail.
- 4) You testified that you did not receive any notices in the mail regarding the need to update your Marketplace account. You thought your family's eligibility was automatically renewed.
- 5) You testified that you have had issues in the past with letters being mailed to you being returned to the sender. Most recently this has happened in December 2014, with a letter from your former employer. You further testified that you have spoken with your postmaster about this issue.
- 6) No notices sent to you by the Marketplace have been returned as undeliverable.
- 7) You testified that your son was in a very serious car accident and because of this, you were not focused on what was going on with your coverage through the Marketplace.
- 8) You testified that you lost your job in mid-November and that you called the Marketplace at the end of December to update your account. You testified you were told that you were eligible for Medicaid but you had to go to a Navigator with your income documentation to finalize your eligibility.
- 9) Your Marketplace account shows that on December 31, 2014, information was updated and that the eligibility history shows that you were Pending- Medicaid Eligible.
- 10) You testified that you were able to get an appointment with a Navigator in mid-January. At that time the Navigator said that you were not eligible for Medicaid.
- 11) You testified that you did not pay the \$850.81 premium for the PrimarySelect Gold plan that you and your son were enrolled in for that month.
- 12) According to your Marketplace account, your coverage was terminated on April 30, 2015.

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 individual's projected eligibility for that year, including any expected eligibility for financial assistance (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 within a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice, and any reported changes (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 first of the next following month (45 CFR § 155.330 (f)(2)). The New York State of Health extended the December 15, 2014 deadline to December 20, 2014, for coverage beginning January 1, 2015 (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]).

The Marketplace must ensure coverage is effective on February 1, 2015 for QHP selections received by the Marketplace through January 15, 2015. (45 CFR § 155.410(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 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 only issue is whether the Marketplace properly determined that eligibility for you and your son for an advance premium tax credit (APTC) and cost-sharing reductions (CSR) was effective February 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 an annual eligibility redetermination notice 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 and your oldest son 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 testified that you did not receive the notice informing you that your application needed to be updated. You testified that you have had issues in the past with letter being sent to you being returned to the sender.

The record indicates that the notices were issued to the address you have listed on your Marketplace account, and that there is no indication that any of the notices were returned to the Marketplace as undeliverable.

Your Marketplace account shows that on December 31, 2014 information was updated and that the eligibility history shows that you were Pending- Medicaid Eligible. No finalized eligibility determination was issued as a result of the December 31, 2014 application because you needed to provide additional income information to confirm your eligibility.

You testified that you got an appointment with a Navigator in mid-January and provided her with your income information. The record shows that your account was updated on January 12, 2015. This resulted in the January 13, 2015 eligibility determination notice that stated you and your oldest son were eligible to receive up to \$479.00 in APTC, and to receive CSR you enrolled in a silver level health plan. This eligibility was effective February 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 the change effective the first day of the following month.

Therefore, the Marketplace's January 13, 2015 eligibility determination is AFFIRMED because it properly began eligibility for APTC and CSR on February 1, 2015.

At the end of a tax year, a person who elects to take the APTC 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 and your son should have been entitled to APTC in the month of January you may receive it in the form of a refund on your 2015 income tax return, if you had coverage for January 2015.

Decision

The January 13, 2015 eligibility determination is AFFIRMED because it properly began you and your oldest son's eligibility for an advance premium tax credit (APTC) and cost-sharing reductions (CSR) on February 1, 2015.

Effective Date of this Decision: July 22, 2015

How this Decision Affects Your Eligibility

You and your oldest son remain eligible to receive up to \$479.00 in advance premium tax credits (APTC), and to receive cost-sharing reductions (CSR) if you enrolled in a silver level health plan. This eligibility is effective February 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:
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Summary

You and your oldest son remain eligible to receive up to \$479.00 in advance premium tax credits (APTC), and to receive cost-sharing reductions (CSR) if you enrolled in a silver level health plan. This eligibility is effective February 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]