



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: AP000000001629

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 30, 2015 eligibility redetermination.

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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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001629

[REDACTED]
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Issue

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

Did the Marketplace properly determine that you are eligible for \$24.00 monthly of Advance Premium Tax Credit (APTC) and, if you select a silver-level qualified health plan, eligible for cost-sharing reductions (CSR) as of January 29, 2015?

Procedural History

On January 29, 2015, the Marketplace prepared a preliminary eligibility redetermination based on updated information you provided. It determined that you are eligible for an advance premium tax credit (APTC) up to \$24.00 per month and eligible for cost-sharing reductions (CSR).

That same day, you spoke with a representative in the Marketplace's Account Review Unit and appealed the eligibility determination.

On January 30, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the January 29, 2015 preliminary redetermination. That notice also stated that you are not eligible for Medicaid because the household income you provided of \$23,868.00 is over the allowable income limit of \$16,105.00.

The Marketplace sent you notice on January 30, 2015, that a telephone hearing was scheduled for February 25, 2015 at about 1:00 p.m.

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On February 25, 2015, a Hearing Officer from the Marketplace's Appeals Unit contacted you by telephone and conducted the hearing. The record was developed and closed at the end of the hearing.

Findings of Fact

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

- 1) You plan on filing your 2015 income tax return as single and will not be claiming any dependents on that tax return.
- 2) You reside in ██████ County, New York.
- 3) According to your testimony and your Marketplace application, your household's expected adjusted gross income for 2015 is \$23,868.00.
- 4) You testified that the Marketplace's Customer Service representative you dealt with showed you had a federal poverty level (FPL) of 204.52% and your advance premium tax credit (APTC) should be over \$200.00, but it was being reported as \$24.00.
- 5) You further testified that the Marketplace's Account Review Unit could not figure out what was causing the defect and that on January 30, 2015, they tried to correct the defect but could not.
- 6) You testified that you filed an appeal to try and get the correct amount of APTC.

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 2014 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

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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)).

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 benefit year for which coverage is requested" (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was 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 200% but less than 250% of the 2014 FPL, the expected contribution in 2015 is between 6.34% and 8.10% 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).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

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Legal Analysis

The only issue is whether the Marketplace properly determined that you are eligible for an advance premium tax credit (APTC) of \$24.00 per month and eligible for cost-sharing reductions (CSR).

According to your Marketplace application and your testimony at the hearing, you attested to an expected yearly household income of \$23,868.00, which is the amount the Marketplace relied upon in determining your eligibility for financial assistance in 2015.

According to the record, you have a one-person tax household for purposes of this analysis.

You reside in ██████ County, where the second lowest cost silver plan available for an individual in 2015 through the Marketplace costs \$371.75 per month.

An annual income of \$23,868.00 is 204.52% of the 2014 federal poverty level (FPL) for a one-person household. At 204.52% of the FPL, the expected contribution to the cost of the health insurance premium is 6.44% of income, or \$129.27 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 2015 in your county (\$371.75 per month) minus your expected contribution (\$129.27 per month), which equals \$242.48 per month and rounded to the nearest dollar is \$242.00. Therefore, the Marketplace determination that you are eligible for APTC of \$24.00 is incorrect.

Accordingly, the Marketplace's January 30, 2015 notice of eligibility redetermination is RESCINDED and your case is returned to the Marketplace to correct this tax credit error and redetermine your eligibility using a one-person household and an expected 2015 income of \$23,868.00.

Decision

The January 30, 2015 eligibility redetermination, as made on January 29, 2015, is RESCINDED.

Your case is RETURNED to the Marketplace to correct this tax credit error and redetermine your eligibility using a one-person household and an expected 2015 annual income of \$23,868.00.

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).

Effective Date of this Decision: June 16, 2015

How this Decision Affects Your Eligibility

Your eligibility for an advance premium tax credit (APTC) up to \$24.00 per month is incorrect. Your case is being returned to the Marketplace to recalculate your eligibility for eligibility using a one-person household and an expected 2015 annual income of \$23,868.00.

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 January 30, 2015 eligibility redetermination, as made on January 29, 2015, is **RESCINDED**.

Your eligibility for an advance premium tax credit (APTC) up to \$24.00 per month is incorrect.

Your case is **RETURNED** to the Marketplace to correct this tax credit error and redetermine your eligibility using a one-person household and an expected 2015 annual income of \$23,868.00.

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]