



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: AP000000001675

[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 29, 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 notice.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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[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, effective March 1, 2015, you are eligible for an advance premium tax credit of \$0.00 monthly and not eligible for cost-sharing reductions as of January 29, 2015?

Procedural History

The Marketplace received your initial financial assistance application for health insurance on January 28, 2015.

On January 29, 2015, the Marketplace issued a notice of eligibility determination that based on an expected annual income of \$39,000.00, you are eligible for advance premium tax credits (APTC) of \$0.00 monthly effective March 1, 2015. The notice also stated that you are not eligible for cost-sharing reductions (CSR) or Medicaid because the income you provided of \$39,000.00 is over the allowable income limits for each of these programs.

On February 3, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as the advance premium tax credit to which you are entitled is \$0.00.

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 was held

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open for up to fifteen days to allow you the opportunity to submit proof of earned income and student loan interest paid.

On March 11, 2015, the Marketplace's Appeals Unit received a three page fax from you consisting of: (1) A cover page; (2) A copy of your 2014 1098-E Student Loan Interest Statement; and (3) A copy of a paystub. This three page fax was made part of the record as "Appellant's Exhibit A."

Since the requested documents were received, the record was closed that same day.

Findings of Fact

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

- 1) You testified that you expect to file your 2015 tax return as single and you do not expect to claim any dependents for the 2015 tax year.
- 2) According to your Marketplace application, your expected 2015 annual gross income is \$39,000.00. Your weekly gross pay is \$700.00 and, after deductions, your net pay is \$436.51 (Appellant's Exhibit A, p. 3).
- 3) You testified and provided documentary proof that you paid \$2,554.34 in student loan interest in 2014, which you expect to be comparable in 2015 (see Appellant's Exhibit A, p. 2).
- 4) You testified that it is a hardship for you to pay monthly health insurance premiums because you only net \$436.51 per week after deductions are taken, which includes child support and a garnishment.
- 5) You currently 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

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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 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)).

Eligibility for the APTC is based on the taxpayer's modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a)). Generally, MAGI is your adjusted gross income plus any nontaxable social security income, non-taxable interest income and non-taxable foreign income that you receive (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B1(e)(2)).

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 the 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 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 300% but less than 400% of the FPL, the expected contribution is 9.56% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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

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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)).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; see also 26 USC § 62 (17)). Interest on revolving lines of credit, which includes interest on credit card debt, is student loan interest if the borrower uses the line of credit or credit card only to pay qualified education expenses.

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, you can consult the Federal Marketplace website (www.healthcare.gov) for information and an application.

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of \$0.00 per month.

As to computing your expected annual income, Congress renewed the qualified tuition deduction for tax year 2014 as part of the Tax Increase Prevention Act of 2014, which became law on December 19, 2014, but it did not renew the law for the 2015 tax year (H.R. 5771 - 113th Congress (2013-2014), Public Law No. 113-295, Title I, Subtitle A, Section 107). Accordingly, while you can claim your qualified tuition deduction on your 2014 income tax return, which will adjust your gross income for that tax year, it cannot be used to adjust your gross income in 2015 for purposes of calculating your APTC at this time.

In the application that was submitted on January 28, 2015, you attested to an expected yearly income of \$39,000.00, and the eligibility determination relied upon that information.

According to the record you are the only person in your tax household.

You reside in ██████ County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$305.04 per month.

As of January 28, 2015, your expected household income for 2015 was \$39,000.00. Even though your household has numerous expenses, including child support and a garnishment, none of these expenses can be deducted from your gross household income for purposes of calculating APTC.

An annual income of \$39,000.00 is 334.19% of the 2014 federal poverty level (FPL) for a one-person household. At 334.19% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$310.70 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 (\$305.04 per month) minus your expected contribution (\$310.70 per month), which equals -\$5.66 per month. Since your expected contribution is higher than the cost of the second lowest cost silver plan, the Marketplace correctly determined that you are eligible for an APTC of \$0.00 per month.

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The second issue is whether the Marketplace properly determined that you were eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$ 39,000.00 is 334.19% of the 2014 FPL, the Marketplace correctly found you to be ineligible for CSR.

Since the January 29, 2015 eligibility redetermination properly stated that, based on the information you provided, you were eligible for APTC of \$0.00 per month and ineligible for CSR, it is correct and is AFFIRMED.

Decision

The January 29, 2015 eligibility redetermination, as made on January 28, 2015, 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 for \$0.00 monthly of advance premium tax credits. You are not eligible for cost sharing reductions.

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.

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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
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- By fax: 1-855-900-5557

Summary

The January 29, 2015 eligibility redetermination, as made on January 28, 2015, is **AFFIRMED**.

This decision does not change your eligibility. You remain eligible for \$0.00 monthly of advance premium tax credits. You are not eligible for cost sharing reductions.

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website (www.healthcare.gov).

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]