



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: AP000000001679

[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 February 4, 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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Issues

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

Did the Marketplace properly determine that you were eligible to receive up to \$98.00 monthly of advance premium tax credit as of February 4, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions as of February 4, 2015, if you enroll in a silver-level qualified health plan?

Did the Marketplace properly determine that your daughter was eligible for Child Health Plus with a monthly premium of \$15.00 as of February 4, 2015?

Procedural History

The Marketplace received your application for health insurance on February 3, 2015. The Marketplace prepared a preliminary eligibility determination stating that you are eligible for up to \$98.00 per month of advance premium tax credit (APTC) and cost-sharing reductions, if you enroll in a silver-level qualified health plan (QHP). Your daughter was found eligible to enroll in Child Health Plus with a monthly premium of \$15.00.

On that same day you spoke to the Marketplace's Account Review Unit and requested an appeal insofar as your eligibility for additional financial assistance through the Marketplace.

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On February 4, 2015, the Marketplace issued an eligibility determination notice stating: You are eligible to receive \$98.00 monthly of advance premium tax credits and eligible for cost-sharing reductions. Your daughter was determined eligible for Child Health Plus with a \$15.00 monthly premium.

On February 27, 2015, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was developed and was closed at the end of the hearing.

Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself and your daughter (Testimony; 2/3/2015 Marketplace Application).
2. Your marital status is single (2/3/2015 Marketplace Application).
3. You testified that you currently reside with your daughter.
4. You testified that you plan on filing a 2015 federal income tax return with the tax status of Head of Household (with qualifying individual) and will claim one dependent on your 2015 federal income tax return.
5. According to your February 3, 2015 Marketplace application, your 2015 expected annual household income is \$37,000.00, which is your earned income.
6. You testified that you are currently employed and that your bi-weekly paychecks vary depending on how much overtime is offered.
7. You submitted two bi-weekly Earnings Statements to the Marketplace:
 - a. On December 19, 2014 (Advice No. ████████) a bi-weekly Earnings Statement was issued with current gross earnings of \$1,469.30.
 - b. On January 2, 2015 (Advice No. ████████) a bi-weekly Earnings Statement was issued with current gross earnings of \$1,403.11.
8. You testified that based on your monthly expenses, the health insurance premiums through the Marketplace were not affordable.
9. You currently reside in ████████ County, NY.

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 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), 435.911(b)(1), 435.603(d)(4)).

The maximum amount of APTC that can be approved 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 2.1% to 9.56% of annual 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 \$15,730.00 for a two-person household (78 Fed. Reg. 5182, 5183).

For annual household income in the range of at least 200% FPL but less than 250% FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3(g)(2)).

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. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement,

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based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Cost-Sharing Reductions:

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a qualified health plan 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)).

Child Health Plus:

A child may be eligible for coverage through Child Health Plus (CHP) provided (1) he or she lives in a household having a household income at or below 400% of the FPL and (2) is not eligible for medical assistance (Medicaid), except that a child who becomes eligible for Medicaid after becoming eligible for CHP, may be eligible for a subsidy payment for a period of three months after becoming eligible for such medical assistance (NY Public Health Law § 2511(2)(b) and (3)).

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the FPL (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL (PHL § 2510(9)(d)(iii)).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan QHP. Such an exemption may be granted if that person can show that 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 qualified health plan (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)).

Legal Analysis

In your February 3, 2015 application, you attested to an expected yearly income in 2015 of \$37,000.00, and the February 4, 2015 eligibility determination relied upon that information.

According to the record, you plan on filing a U.S. Income Tax Return with the tax status of Head of Household (with qualifying individual) and will claim one dependent on your 2015 federal income tax return. Therefore, you are a two-person household.

You reside in ██████ County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$331.49 per month.

An annual household income of \$37,000.00 equals 235.22% of the 2014 federal poverty level (FPL) for a two-person household. At 235.22% of the 2014 FPL, the expected contribution to the cost of the health insurance premium is 7.58% of income, or \$233.72 per month.

The maximum amount of advance premium tax credit (APTC) that can be awarded equals the cost of the second lowest cost silver plan in your county (\$331.49 per month) minus your expected contribution (\$233.72 per month), which equals \$97.77 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be up to \$98.00 per month.

Cost-sharing reductions are available to a person who has an annual expected household income no greater than 250% of the FPL. Since your annual household income is 235.22% of the 2014 FPL, the Marketplace correctly found you eligible for cost-sharing reductions.

A Child Health Plus (CHP) premium payment is required for an eligible child whose family household income is at least 160% of the FPL. The premium is \$15.00 for a family with a household income between 223% and 250% of the FPL. Since your income falls within that range, the Marketplace was correct when it determined that your daughter's CHP premium would be \$15.00 per month.

You testified that your bi-weekly paychecks vary depending on how much overtime is offered and are not able to accurately project your 2015 expected yearly income.

The record does not contain sufficient testimony or documents to return your case to Marketplace to recalculate your benefits on a yearly basis. However, please contact the Marketplace when you have sufficient documentation that shows that your projected 2015 yearly household income does not accurately reflect your 2015 actual household income.

Since the February 4, 2015 eligibility determination properly states that you are eligible for an APTC up to \$98.00 per month, eligible for cost-sharing reductions, and your daughter is eligible for CHP with a monthly premium of \$15.00 on your February 3, 2015 Marketplace application, it is correct and is AFFIRMED.

Decision

The February 4, 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 up to \$98.00 monthly of advance premium tax credit and eligible for cost-sharing reductions as of February 4, 2015.

Your daughter remains eligible for Child Health Plus with a monthly premium of \$15.00 as of February 4, 2015.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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

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 February 4, 2015 eligibility determination is **AFFIRMED**.

You remain eligible to receive up to \$98.00 monthly of advance premium tax credit and eligible for cost-sharing reductions as of February 4, 2015.

Your daughter remains eligible for Child Health Plus with a monthly premium of \$15.00 as of February 4, 2015.

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Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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

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]