



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

Notice of Decision

Decision Date: June 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001713

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 5, 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).

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).

This page intentionally left blank.



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

Decision

Decision Date: June 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001713

[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 \$0.00 per month in advance premium tax credit and ineligible for cost-sharing reductions as of February 4, 2015?

Procedural History

The Marketplace received your initial 2015 application for health insurance on February 4, 2015, and prepared a preliminary eligibility determination in your case. It determined that you are eligible for \$0.00 per month in advance premium tax credits (APTC) effective March 1, 2015.

On February 5, 2015, the Marketplace issued a notice of eligibility determination that was consistent with its February 4, 2015 preliminary eligibility determination. That notice also said that you are ineligible for cost-sharing reductions and for Medicaid because the household income of \$59,608.22 that you provided is over the allowable maximum income limits for each of these programs.

On February 6, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as you were found eligible for APTC at \$0.00 monthly.

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).

On February 7, 2015, the Marketplace issued a letter confirming your selection of Fidelis Care Bronze ST INN Pediatric Dental Dep25 (Fidelis Care Bronze), with a monthly premium responsibility of \$308.15.

On February 11, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with and had the same findings as the February 5, 2015 notice of eligibility determination.

On March 6, 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 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 expect to file your 2015 tax return as Single and you claim your son and cousin as dependents for the 2015 tax year.
- 2) You currently reside in █████ County, New York with your domestic partner, your son, and your cousin.
- 3) According to your Marketplace account, your domestic partner expects to file his 2015 tax return as Single.
- 4) You testified that you are currently employed and earn approximately \$59,608.22 per year, or \$2,292.62 every two weeks, before taxes are deducted.
- 5) You are the only person in your household with an income.
- 6) You testified that it is difficult for you to afford your monthly premiums based on your current income and being the sole supporter of your household.

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)).

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)).

A taxpayer's household income is the taxpayer's own MAGI plus the MAGI of all the other individuals in the taxpayer's family who are required to file a return for the tax year (26 USC § 36B(d); 26 CFR § 1.36B-1(e)).

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

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).

CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 300 % but less than 400% of the 2014 FPL, the expected contribution is set at 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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 first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

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

At issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit of \$0.00 per month and that you were not eligible for cost-sharing reductions.

In the application that was submitted on February 4, 2015, you attested to an expected yearly income of \$59,608.22, which you confirmed at the hearing is accurate and is the only source of income for your household. The eligibility determination relied upon that information.

According to the record, you will be claiming your son and your cousin as dependents on your 2015 taxes and your domestic partner will be filing separately. Therefore, you have three people in your tax household.

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

An annual income of \$59,608.22 is 301.2% of the 2014 federal poverty level (FPL) for a three-person household. At 301.2% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$474.88 per month.

The maximum amount of advance premium tax credit 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 (\$474.88 per month), which equals -\$103.13 per month. Since your monthly contribution is greater than the second lowest cost silver plan in your county, the Marketplace correctly determined your advance premium tax credit to be \$0.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$59,608.22 is 301.2% of the 2014 FPL, the Marketplace correctly found you to be ineligible for cost-sharing reductions.

Decision

The February 5, 2015 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: June 18, 2015

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).

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of \$0.00 per month and 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. 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
Albany, NY 12211
- By fax: 1-855-900-5557

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).

Summary

The February 5, 2015 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of \$0.00 per month and 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).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]