



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

Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001776

[REDACTED]

Dear [REDACTED],

On April 2, 2015 you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's December 22, 2014 and February 14, 2015 eligibility determinations.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the 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 Code of Federal Regulation (CFR) 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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Issues

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

Did the Marketplace properly determine on December 22, 2014 that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2015?

Did the Marketplace properly determine on February 14, 2015 that your eligibility for advance premium tax credits and cost-sharing reductions was effective March 1, 2015?

Procedural History

On November 6, 2014, the Marketplace issued a notice that stated it was time for you to renew your 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 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 were newly eligible to purchase a qualified health plan at full cost. You were not eligible to receive advance premium tax credits (APTC) because "renewal period and income data [was] not available." You were not

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eligible for cost-sharing reductions because you were ineligible to receive APTC. This eligibility was effective January 1, 2015.

On December 23, 2014, the Marketplace issued an enrollment confirmation notice that stated you were enrolled in CareConnect EPO Silver with a premium responsibility of \$420.00. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin, which could be as early as January 1, 2015. If you did not pay your premium, you could lose your health coverage.

On February 13, 2015, information in your Marketplace account was updated. That day, a preliminary eligibility determination was rendered that stated you were eligible for \$288.00 in advance premium tax credits (APTC) and cost sharing reductions if you enroll in a silver level health plan. This eligibility was effective March 1, 2015.

Also on February 13, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as your eligibility for APTC did not begin January 1, 2015.

On February 14, 2015, the Marketplace issued an eligibility redetermination notice that stated you were newly conditionally eligible to receive up to \$288.00 in APTC per month, and newly conditionally eligibility to receive cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective March 1, 2015.

On February 14, 2015, the Marketplace issued an enrollment confirmation notice that stated as of February 13, 2015 you were enrolled in CareConnect EPO Silver with a premium responsibility of \$132.00.

On April 2, 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, and the record reflects, that you elected to receive your notices from the Marketplace via electronic mail.
- 2) You testified that you received an email in November telling you that you needed to update your Marketplace account.

- 3) You testified that you called the Marketplace in November and went through your application over the phone with a representative from the Marketplace and that everything in your application remained the same.
- 4) There is no indication in the record that anyone from the Marketplace accessed your account in November or December to update information.
- 5) You testified that you did not know anything was wrong with your eligibility for tax credits until you received a bill for the full premium amount in February.
- 6) You testified that you updated your Marketplace account with a representative on February 13, 2015.
- 7) You testified that you paid \$119.00 to EPO CareConnect for January and February. This was the amount of premium you were paying for the plan in 2014, after APTC was applied.
- 8) You testified that you have not paid the full premium amounts for January and February.
- 9) You testified that you received conflicting information from various Marketplace representatives.
- 10) You testified that you are seeking your APTC amount to be made effective January 1, 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 projected eligibility determination for the following year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)).

The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Redetermination During a Benefit Year

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 (or not 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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible to enroll in a qualified health plan, at full cost, effective January 1, 2015.

The Marketplace must annually redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance. The Marketplace must issue a renewal notice that contains the projected eligibility determination for the following year. 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 renewal 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 qualify for financial help paying for your health coverage. 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.

You testified that you received the November 6, 2014 notice that asked you to renew your account with the Marketplace. You further testified that you called the Marketplace and walked through the entire application with a representative in

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November to renew your account. However, there is nothing in the record that indicates your account was accessed by you or by a Marketplace representative before the December 15, 2014 deadline.

Since the Marketplace had not received any updated information from you by the time of the deadline stated in the renewal notice, on December 22, 2014 an eligibility redetermination notice was issued that stated you were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. You were not eligible to receive advance premium tax credits (APTC) because renewal period and income data was not available. This finding was necessitated by the federal regulations noted above and, therefore, the Marketplace's December 22, 2014 eligibility determination is AFFIRMED.

The second issue is whether the Marketplace properly determined that your eligibility for APTC and cost-sharing reductions became effective no earlier than March 1, 2015.

The record shows that your application was updated on February 13, 2015. This resulted in the February 14, 2015 eligibility determination that stated you were newly conditionally eligible to receive up to \$288.00 in APTC per month, and newly conditionally eligible to receive cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective March 1, 2015.

When an individual changes information in their application after the 15th of any month, the Marketplace must make the redetermination that results from the change effective the first day of the next following month.

Therefore, the Marketplace's February 14, 2015 eligibility determination is AFFIRMED because it properly began your eligibility for APTC and cost-sharing reductions on March 1, 2015.

However, when APTC is recalculated mid-year, the Marketplace is required to prorate monthly amounts to reflect APTC that has already been received, to ensure that the APTC you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2015 tax year. It appears that the Marketplace did not do this. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received APTC for the entire 12 months of the year.

Therefore, the matter is RETURNED to the Marketplace to calculate the amount of APTC to which you should have received for the remaining 10 months of 2015.

Decision

The December 22, 2014 eligibility determination is AFFIRMED.

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The February 14, 2015 eligibility determination is MODIFIED to reflect that you are conditionally eligible to receive up to \$288.00 per month in APTC, and AFFIRMED in all other respects. Your case is returned to the Marketplace to determine the amount of annual premium tax credit you are currently expected to be entitled to when you file your tax return for 2015, and then to recalculate the monthly APTC based on how much in APTC you had already received, and how many months you would be receiving APTC, as of the February 14, 2015 eligibility determination.

The matter is RETURNED to the Marketplace to calculate the amount of APTC to which you should have received for the last 10 months of 2015.

Effective Date of this Decision: August 14, 2015

How this Decision Affects Your Eligibility

This is not a final determination as to the amount of APTC you were entitled to as of March 1, 2015; this issue will be addressed in a future eligibility determination.

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.

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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
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- By fax: 1-855-900-5557

Summary

The December 22, 2014 eligibility determination is **AFFIRMED**.

The February 14, 2015 eligibility determination is **MODIFIED** to reflect that you are tentatively eligible to receive up to \$288.00 per month in APTC, and **AFFIRMED** in all other respects. Your case is returned to the Marketplace to determine the amount of annual premium tax credit you are currently expected to be entitled to when you file your tax return for 2015, and then to recalculate the monthly APTC based on how much in APTC you had already received, and how many months you would be receiving APTC, as of the February 14, 2015 eligibility determination.

The matter is **RETURNED** to the Marketplace to calculate the amount of APTC to which you should have received for the last 10 months of 2015.

This is not a final determination as to the amount of APTC you were entitled to as of March 1, 2015; this issue will be addressed in a future eligibility determination.

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:

