



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: AP000000001790

[REDACTED]

Dear [REDACTED],

On April 27, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 14, 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).

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Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001790

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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 are eligible to receive up to \$101.00 per month in advance premium tax credit, effective March 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

Procedural History

On February 13, 2015, the Marketplace received your modified application for health insurance.

On February 14, 2015, the Marketplace issued an eligibility determination notice. That notice stated that you were eligible to receive up to \$101.00 per month in advance premium tax credits (APTC), effective March 1, 2015. You were not eligible for cost sharing reductions because your income was over the allowable limit for that program.

Also on February 14, 2015, you spoke with the Marketplace's Account Review unit and appealed that eligibility determination as it related to the amount of APTC and cost sharing reductions you were eligible for.

On March 14, 2015, income information in your account was modified.

On March 15, 2015, the Marketplace issued an eligibility redetermination notice. That notice stated that you were eligible to receive an APTC amount of up to \$111.00 per month, effective April 1, 2015. You were newly eligible to receive cost sharing reductions if you enrolled in a silver level health plan.

On April 27, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Spanish Interpreter # [REDACTED] assisted with the hearing. 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 that you plan on filing your 2015 tax return as married filing jointly. You will claim no children as dependents on that tax return.
- 2) At the time of the February 14, 2015 eligibility determination, your application listed an annual household income of \$39,730.60.
- 3) At the time of the March 15, 2015 eligibility redetermination, your application listed an annual household income of \$39,002.60. You testified that this amount was based on what was on your 2014 W-2 form.
- 4) You testified that your expected income for 2015 has gone down because the number of hours you work has been reduced. You testified that for 2015 you plan on working between 30 and 32 hours a week. You are paid \$10.00 per hour.
- 5) You testified that your wife expects to make \$21,530.00 in income in 2015.
- 6) You testified that you do not plan on taking any deductions on your 2015 tax return.
- 7) Your application states that you reside in New York County.
- 8) You are the only person in your household seeking insurance through the Marketplace as this time.

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)).

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 CFR §§ 155.300(a), 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 (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 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

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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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$101.00 per month.

In the application that was submitted on February 13, 2015, you attested to an expected yearly household income of \$39,730.60, and the eligibility determination relied upon that information.

According to the record there are two people in your household. You plan on filing your 2015 tax return as married filing jointly with your spouse, and will claim no dependents on that tax return.

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

An annual income of \$39,730.60 is 252.58% of the 2014 FPL for a two-person household. At 252.58% of the FPL, the expected contribution to the cost of the health insurance premium is 8.18% of income, or \$270.66 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 (\$371.75 per month) minus your expected contribution (\$270.66 per month), which equals \$101.09. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC amount to be up to \$101.00 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 \$39,730.60 is 252.58% of the 2014 FPL for a two-person household, the Marketplace correctly found you to be not eligible for cost-sharing reductions.

Since the February 14, 2015 eligibility determination properly stated that you were eligible for APTC of up to \$101.00 per month and not eligible for cost-sharing reductions, it is correct and is AFFIRMED.

After you filed your request for an appeal, income information in your Marketplace application was updated. On March 15, 2015 the Marketplace issued an eligibility redetermination notice. That notice stated that you were eligible to receive an APTC amount of up to \$111.00 per month. You were newly eligible to receive cost sharing reductions if you enrolled in a silver level health plan. This was based on an annual household income of \$39,002.60.

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However, you testified at the hearing that the income on your application was based on your 2014 W-2 and is no longer accurate for 2015. You testified that your wife expects to make \$21,530.00 in income in 2015. You testified that your expected income for 2015 has gone down because the number of hours you worked was reduced. You testified that for all of 2015 you plan on working between 30 and 32 hours a week. You are paid \$10.00 per hour. This results in an annual expected income of \$16,120.00 (average of 31 hours a week x \$10 an hour x 52 weeks). Therefore, your expected annual household income is actually \$37,650.00.

Your case is being RETURNED to the Marketplace for a redetermination of your eligibility based on a household of two people, and an individual residing in New York County with an annual household income of \$37,650.00.

Decision

The February 14, 2015 eligibility determination is AFFIRMED.

Your case is being RETURNED to the Marketplace for a redetermination of your eligibility based on a household of two people residing in New York County, seeking an individual plan with an annual household income of \$37,650.00.

Effective Date of this Decision: August 14, 2015

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace for a redetermination of your eligibility based on a household of two people residing in New York County, seeking an individual plan with an annual household income of \$37,650.00.

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.

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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 14, 2015 eligibility determination is AFFIRMED.

Your case is being RETURNED to the Marketplace for a redetermination of your eligibility based on a household of two people residing in New York County, seeking an individual plan with an annual household income of \$37,650.00.

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:

