



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

Notice of Decision

Decision Date: July 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001793

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On April 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 16, 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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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were not eligible for an advance premium tax credit or cost-sharing reductions effective March 1, 2015?

Procedural History

The Marketplace received your 2015 application for health insurance on February 15, 2015 and prepared a preliminary eligibility determination that stated you are not eligible for financial assistance. This preliminary eligibility determination was based on an annual household income of \$55,333.00.

Also on February 15, 2015, you spoke with the Marketplace's Account Review Unit and appealed that preliminary determination insofar as it did not approve any financial assistance toward the cost of your health insurance premiums.

On February 16, 2015, the Marketplace issued an eligibility determination based on the February 15, 2015 application for health insurance. The notice stated that you are eligible to purchase a qualified health plan at full cost through New York State of Health. The notice further stated that you do not qualify for Medicaid, or to receive a tax credit to help pay for the cost of coverage, because the income you provided of \$55,333.00 is above the allowable income limit for these programs. The notice further stated that you are not eligible for cost-sharing

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reductions because you are ineligible to receive an advance premium tax credit. This eligibility was effective March 1, 2015.

On April 9, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit evidence supporting your position.

On April 24, 2015, the Marketplace's Appeals Unit did not receive your supporting evidence and the record was closed.

Findings of Fact

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

- 1) You are currently single and have two children.
- 2) According to the February 15, 2015 application, you expect to file your 2015 federal income tax return as single and claim no dependents.
- 3) According to the February 15, 2015 application, you attested to an expected household income of \$55,333.00. You testified that this income is an accurate reflection of your expected income for the 2015 tax year.
- 4) The record reflects that you reside in Kings County, NY.
- 5) You testified that your adjusted gross income (AGI) does not reflect other financial obligations that affect your monthly income. You testified that your AGI does not reflect a child support payment that is disproportionately higher than your income. You further testified that you pay \$1,442.46 per month in child support payments plus \$100.00 per month for arrears repayment for a total of \$1,542.46 per month.
- 6) You testified that you expected to file bankruptcy in May 2015.

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)).

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).

Eligibility for the advance premium tax credit (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 non-taxable social security income, non-taxable interest income and non-taxable foreign income that you receive (see 26 USC § 36B(d)(2)(B), 26 CFR § 1-36B-1(e)(2)). "Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62).

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)).

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 he 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

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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)).

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 information and an application.

Catastrophic Plan Eligibility

A person who has applied for and received a hardship exemption may enroll in a catastrophic coverage plan regardless of age (45 CFR § 155.305(h)(2)).

Legal Analysis

The only issue under review is whether the Marketplace properly determined that you are not eligible for an advance premium tax credit (APTC) and not eligible for cost sharing reductions (CSR).

According to the February 15, 2015 application, you expect to file your 2015 federal income tax as single and claim no dependents; therefore you were considered a one-person tax household.

A one-person household may qualify for APTC if the annual household income is between \$16,105.00 (138% of the 2014 federal poverty level (FPL)) and \$46,680.00 (400% of the 2014 FPL).

According to the February 15, 2015 application, your expected household income for the 2015 tax year was \$55,333.00. An annual income of \$55,333.00 is 474.12% of the 2014 FPL for a one-person household. Therefore, because your 2015 expected income exceeds 400% of the 2014 FPL, the Marketplace correctly determined that you were not eligible for APTC.

Since you were not eligible to receive advance APTC, the Marketplace correctly determined that you were not eligible for CSR. Therefore, the February 16, 2015 eligibility determination is AFFIRMED.

You testified that you may not be able to afford to pay a health insurance premium given your current financial obligations. 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 visit the Federal Marketplace website (www.healthcare.gov) for an application.

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If you receive a hardship exemption, you may qualify for catastrophic coverage, which is a more affordable option for health insurance. For more information on catastrophic coverage, you can also visit the Federal Marketplace website.

Decision

The February 16, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 10, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

This decision does not affect any determinations made after February 16, 2015.

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):

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- By fax: 1-855-900-5557

Summary

The February 16, 2015 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

This decision does not affect any determinations made after February 16, 2015.

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]