



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

Notice of Decision

Decision Date: July 30, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001795

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 13, 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).

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: July 30, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001795

[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 are eligible for an advance premium tax credit of up to \$23.00 per month?

Procedural History

The Marketplace received your applications for 2015 health insurance on February 15, 2015 and prepared preliminary eligibility determinations in your case in response to these applications. The later preliminary determination stated that you were eligible to enroll in a qualified health plan through the Marketplace and receive an advance premium tax credit of up to \$23.00 per month. This eligibility determination was based on an expected household income of \$45,913.00.

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 an advance premium tax credit of more than \$23.00 per month.

On February 16, 2015, the Marketplace issued an eligibility determination notice that stated that you were eligible to enroll in a qualified health plan through the Marketplace and receive an advance premium tax credit of up to \$23.00 per month.

On March 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, you testified that you had not received formal notice of the scheduled telephone hearing. Under sworn testimony, you

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).

waived your right to formal notice and proceeded 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 are currently separated from your spouse and do not reside with him. You further testified that you currently reside with your parents.
- 2) You testified, and the record reflects, that you do not have any dependents.
- 3) According to the February 15, 2015 application, you expect to file your 2015 taxes jointly with your spouse. You testified that you no longer expect to file your taxes jointly with your spouse.
- 4) You testified that you separated from your spouse approximately one year ago. You further testified that your spouse's income is not used for your support because you are currently supporting yourself.
- 5) According to the February 15, 2015 application, you attested to an expected household income of \$45,913.00 for the 2015 tax year, which includes your earned income of \$7,372.00 and your spouse's earned income of \$38,541.00. You testified that this income is not an accurate representation of the income used to provide your support.
- 6) You testified that you expect to earn approximately \$10,000.00 for the 2015 tax year. You further testified that your spouse expects to earn approximately \$38,541.00 for the 2015 tax year. You testified that you have personal knowledge of your spouse's income because you completed his tax return.
- 7) You testified that you do not have any other sources of income.
- 8) The record reflects that you reside in Nassau County, New York.

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 general, a tax filer who is married is eligible for APTC only if he or she files a joint return with his or her spouse (45 CFR § 155.305(f), 45 CFR § 155.310(d), 26 CFR § 1.36B-2).

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).

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).

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

Legal Analysis

The issue under review is whether the Marketplace properly determined that you are eligible for an advance premium tax credit (APTC) of up to \$23.00 per month.

According to the February 15, 2015 application, you and your spouse were separated but expect to file your 2015 federal income tax return jointly and claim no dependents, and the Marketplace relied upon that information. Therefore, you were considered to be a two-person tax household.

According to the same application, you attested to an expected household income of \$45,913.00 before taxes are deducted, which includes your expected earned income of \$7,372.00 and your spouse's earned income of \$38,541.00. The eligibility determination relied upon that information.

You reside in Nassau County, where the second lowest cost silver plan available in 2015 for an individual through the Marketplace costs \$379.93 per month.

An annual income of \$45,913.00 is 291.88% of the 2014 federal poverty level (FPL) for a two-person household. At 291.88% of the FPL, the expected contribution to the cost of the health insurance premium is 9.32% of income, or \$356.70 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 (\$379.93 per month) minus your expected contribution (\$356.70 per month), which equals \$23.23. Therefore, rounded to the nearest dollar, the Marketplace correctly determined your APTC to be \$23.00 per month.

Therefore, the February 16, 2015 eligibility determination is **AFFIRMED**.

However, you testified that you are separated from your spouse and do not receive any support from him. You further testified that you no longer plan to file your 2015 federal income tax return jointly with your spouse.

Generally, a taxpayer who is married must file a joint return with his or her spouse to be eligible for an APTC.

Since you do not expect to file a joint tax return with your spouse, your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance based on your attested tax filing status of married filing separately.

Decision

The February 16, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance based on your attested tax filing status of married filing separately.

You should update your account based on your new life circumstances.

Effective Date of this Decision: July 30, 2015

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility.

You remain eligible to receive an advance premium tax credit (APTC) of up to \$23.00 per month to be applied toward your monthly health insurance premiums until a redetermination is made. Any difference in the amount of authorized APTC is properly reconciled on a federal individual income tax return.

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

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).

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

Summary

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

Your case is **RETURNED** to the Marketplace to redetermine your eligibility for financial assistance based on your attested tax filing status of married filing separately.

You should update your account based on your new life circumstances.

This is not a final determination of your eligibility.

You remain eligible to receive an advance premium tax credit (APTC) of up to \$23.00 per month to be applied toward your monthly health insurance premiums until a redetermination is made. Any difference in the amount of authorized APTC is properly reconciled on a federal individual income tax return.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]