



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: AP000000001801

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Dear [REDACTED],

On March 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 31, 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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[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

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 for an advance premium tax credit of up to \$192.00 per month?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

Procedural History

The Marketplace received your initial application for health insurance on October 9, 2014.

You modified your application several times between October 9, 2014 and January 30, 2015.

On January 31, 2015, the Marketplace issued an eligibility determination notice that stated you are conditionally eligible to receive an advance premium tax credit of up to \$192.00 per month and conditionally eligible for cost-sharing reductions if you select a silver level qualified health plan. The notice further requested that you provide documentation of your income by May 2, 2015 in order to confirm your eligibility.

On February 17, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it did not approve an advance premium tax credit of more than \$192.00 per month.

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On March 18, 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 March 30, 2015, the Marketplace's Appeals Unit received your supporting evidence via fax. The documents submitted include a gas bill from [REDACTED] a water and sewer bill, a copy of your son's Social Security card, two copies of your mortgage bill, a quarterly property tax bill, an electric bill from [REDACTED] and your employment payroll journal for the month of January 2015. These documents were collectively marked as Appellant's Exhibit 2 and incorporated into the record.

The record was closed on March 30, 2015.

Findings of Fact

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

- 1) You testified that you currently reside with your two children, [REDACTED] and [REDACTED], and one other individual. You further testified that your son and daughter live with you full time.
- 2) You testified that you expect to file your 2015 federal income tax return as single and claim both your son and your daughter as dependents.
- 3) You testified that in 2014, your daughter's mother claimed your daughter as a dependent, and you claimed your son as a dependent; however, in 2015, you expect to claim both children as dependents. You further testified that your children's mother provides approximately 50% of their support.
- 4) According to the January 30, 2015 application, you attested to an expected household income of \$32,686.00. You testified that you are employed under a contract with your employer and earn under \$30,000.00 through the contract. However, you further testified that you expect to earn between \$40,000.00 and \$50,000.00 for the 2015 tax year, which includes your contract income plus estimated overtime income.
- 5) You provided evidence that you are paid bi-weekly by your employer: [REDACTED]. You provided evidence of your income for January 2015, which indicates that you earned \$1,622.87 on January 2, 2015 before taxes are deducted, \$2,400.81 on January 16, 2015

before taxes are deducted, and \$1,772.70 on January 30, 2015 before taxes are deducted (Appellant's Exhibit 2, March 30, 2015).

- 6) You testified that you are the only individual in your household seeking insurance through the Marketplace.
- 7) The record reflects that you reside in Queens County, NY.
- 8) You testified that you cannot afford a monthly health insurance premium after paying the necessary living expenses for yourself and your children.

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), IRS Rev. Proc. 2014-37).

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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 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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).

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)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you are eligible for an advance premium tax credit (APTC) of up to \$192.00 per month.

According to the January 30, 2015 application, you expect to file your 2015 federal income tax as single and claim your son as a dependent; therefore, you are a two-person tax household.

According to the same application, you attested to an expected household income of \$32,686.00 before taxes are deducted. The eligibility determination relied upon that information.

You reside in Queens County, where the second lowest cost silver plan available in 2015 for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$32,686.00 is 207.79% of the 2014 federal poverty level (FPL) for a two-person household. At 207.79% of the FPL, the expected contribution to the cost of the health insurance premium is 6.61% of income, or \$180.05 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 (\$180.05 per month), which equals \$191.70 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$192.00 per month.

The second issue is whether the Marketplace properly determined that you were eligible for cost-sharing reductions.

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 \$32,686.00 is 207.79% of the 2014 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

Therefore, the January 31, 2015 eligibility determination is AFFIRMED.

However, you testified that information in your January 30, 2015 is no longer an accurate reflection of your current circumstances.

You testified that in 2014, your daughter's mother claimed your daughter as a dependent on her federal income tax return. However, you expect to claim your daughter and your son as dependents on your 2015 federal income tax return, therefore, you are currently a three-person tax household. You further testified that you expect to earn between \$40,000.00 and \$50,000.00 for the 2015 tax year, depending upon how much overtime you are able to work. On March 30, 2015, you provided information that your income fluctuates depending on the amount of overtime you work above your contract work hours. Therefore, the credible evidence of record supports a finding that approximately \$45,000.00 is a reasonable estimate of your expected 2015 income.

Since the record has been developed with additional information on your expected income and your household size for 2015, your case is RETURNED to the Marketplace for a new eligibility determination for a three-person household, including [REDACTED] (DOB: [REDACTED]), with an expected household income of \$45,000.00 for the 2015 tax year, living in Queens County. You may need to provide additional information to the Marketplace in order for it to make a redetermination.

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Decision

The January 31, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace for a new eligibility determination for a three-person household, including [REDACTED] (DOB: [REDACTED]), with an expected household income of \$45,000.00 for the 2015 tax year, living in Queens County.

Effective Date of this Decision: July 10, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility but it does return your case to the Marketplace for further 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
- By mail at:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 31, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace for a new eligibility determination for a three-person household, including [REDACTED] (DOB: [REDACTED]), with an expected household income of \$45,000.00 for the 2015 tax year, living in Queens County.

This decision does not change your eligibility but it does return your case to the Marketplace for further 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:

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]