



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: AP000000001888

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

Dear [REDACTED],

On March 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 15, 2014 eligibility determination.

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 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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Issues

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

Did the Marketplace properly determine that you and your spouse were eligible for an advanced premium tax credit of up to \$443.00 per month?

Did the Marketplace properly determine that you and your spouse were not eligible for cost sharing reductions?

Procedural History

On December 14, 2014, the Marketplace received your application for health insurance.

On December 15, 2014, the Marketplace issued an eligibility determination notice stating that you are conditionally eligible and your spouse is eligible to receive up to \$443.00 of advance premium tax credits and not eligible for cost sharing reductions and Medicaid because your household income is over the allowable income limit. Your son was determined conditionally eligible to receive up to \$165.00 of advance premium tax credits and not eligible for cost sharing reductions and Medicaid. Your daughter was determined eligible for up to \$289.00 of advance premium tax credits, eligible for cost sharing reductions and not eligible for Medicaid.

On January 26, 2015, you spoke to the Marketplace's Account Review Unit and appealed the amount of advance premium tax credits you and your spouse were determined eligible to receive.

On March 20, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit with the assistance of Spanish Interpreter # [REDACTED]. 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 are applying for health insurance through the Marketplace for yourself, your spouse, your thirty-eight-year-old son, and twenty-four-year-old daughter.
2. You expect to file a U.S. Income Tax return for 2015 (Testimony; 12/14/2015 Marketplace application).
3. You plan to file your 2015 tax return with the tax status married filing jointly, with your spouse, and claim no dependents on that tax return (Testimony; 12/14/2015 Marketplace application).
4. According to your December 14, 2014 Marketplace application, your annual household income is \$42,120.00. You expected to receive \$42,120.00 in earned income and your spouse expected \$0.00 in income.
5. You currently reside in New York County, New York.
6. You testified that based upon your current level of income and monthly expenses, insurance through the Marketplace is unaffordable to you.
7. You testified that your spouse is receiving \$405.00 in Social Security Benefits per month.

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 and (1) expects to have a household income between 138% and 400% of the 2014 federal poverty level (FPL); (2) expects to

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file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan (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 the 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).

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 (see 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 benefit year for which coverage is requested (45 CFR § 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).

Eligibility for the 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).

A taxpayer's household income includes the modified adjusted gross income (MAGI) of all the individuals in the taxpayer's family who are required to file a return for the taxable year (26 CFR § 1-36B-1(e)(2)).

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,

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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 percent 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)).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that person can show that she 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 person from obtaining coverage under a QHP (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)).

Legal Analysis

According to the record, you have a two-person tax household. You expect to file your 2015 federal income tax return with the tax status of married filing jointly with your spouse and claim no dependents on that return.

You reside in New York County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$743.50 per month.

A two-person household may qualify for an advance premium tax credit (APTC) if the annual household income is between \$21,708.00 (138% 2014 FPL) and \$62,920.00 (400% 2014 FPL).

The December 15, 2014 eligibility determination was based on an annual household income of \$42,120.00, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$42,120.00 equals 267.77% of the 2014 FPL for a two-person household. At 267.77% of the FPL, the expected contribution to the cost of the health insurance premium is 8.62% of income, or \$302.52 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$743.50 per month) minus your expected contribution (\$302.52 per month), which equals \$440.98 per month. Therefore, the Marketplace correctly computed your APTC to be \$443.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 267.77% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found not eligible for cost-sharing reductions.

Since the December 15, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$443.00 per month and not eligible for cost-sharing reductions, it is correct and is AFFIRMED.

However, you testified that your spouse expects to receive \$405.00 per month in Social Security benefits in 2015. The Premium tax credit that can be authorized on an expected household income of \$42,120.00 is materially different than the credit that can be authorized if the (\$405.00 X 12) \$4,860.00 in Social Security benefits is included.

Since the Social Security benefits were not included in your December 14, 2014 Marketplace application and may materially affect the amount of APTC you were determined eligible to receive, your case is REMANDED to the Marketplace for a redetermination of your eligibility based on an expected household income of \$46,980.00.

Decision

The December 15, 2014 eligibility determination is AFFIRMED.

Your case is REMANDED to the Marketplace for a redetermination of your eligibility based on an expected household income of \$46,980.00 for a household of two residing in New York County, NY.

Effective Date of this Decision: July 10, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

Your case is REMANDED to the Marketplace for a redetermination of your eligibility based on an expected household income of \$46,980.00 for a household of two residing in New York County, NY.

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 additional information and an application.

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.

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 December 15, 2014, eligibility determination is AFFIRMED.

Your case is REMANDED to the Marketplace for a redetermination of your eligibility based on an expected household income of \$46,980.00 for a household of two residing in New York County, NY.

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 additional information and an application.

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]
[REDACTED]