



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

Notice of Decision

Decision Date: December 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001898

[REDACTED]

Dear [REDACTED],

On March 26, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 25, 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 Code of Federal Regulation 45 CFR § 155.545(b).

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DEPARTMENT OF HEALTH
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Decision Date: December 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: [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 were eligible to receive up to \$262.00 per month in advance premium tax credit, effective April 1, 2015?

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

Procedural History

On February 12, 2015, the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared, stating that you needed to provide more information in order to make a determination. You were asked to provide income documentation in order to confirm your eligibility by March 2, 2015.

On February 14, 2015, a disenrollment notice was issued stating that your silver level qualified health plan coverage would end effective February 28, 2015.

On February 25, 2015, an eligibility determination was made after receiving your updated application for financial assistance. The determination found you eligible to receive advance premium tax credits and cost sharing reductions in the amount of \$262.00 per month effective April 1, 2015. This determination was based on your reported household income of \$22,302.72.

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On February 27, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the February 25, 2015 eligibility determination insofar as the level of advance premium tax credit and cost sharing reductions you were found eligible to receive.

On March 4, 2015, a notice of telephone hearing was issued for a scheduled hearing on March 26, 2015 at 6:00 p.m.

On March 26, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

- 1) Your application attests to the fact that you will be filing your 2015 taxes as single.
- 2) You will not be claiming any dependents on your 2015 taxes.
- 3) Your application states that you will not be taking any deductions on your 2015 tax return.
- 4) The application that was submitted on February 25, 2015 listed an annual household income of \$22,302.72 you will receive from your employment.
- 5) You uploaded income documentation to your Marketplace account on February 20, 2015 in the form of a paystub dated February 13, 2015 which stated an annual salary of \$22,302.72.
- 6) Your application states that you live in Westchester County.

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 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

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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 \$ 11,670 for a one-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 150% but less than 200 % of the 2015 FPL, the expected contribution is between 4.02% and 6.34 % of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (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

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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)).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

Generally, gross income does not include “amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer)” (26 USC § 104(a)(3)).

An individual’s income from Social Security benefits is included in their gross income only to the extent that the sum of the person’s IRS-defined “modified adjusted gross income” and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse were eligible for an advance premium tax credit (APTC) of up to \$262.00 per month.

The application that was submitted on February 25, 2015 listed an annual household income of \$22,302.72 and the eligibility determination relied upon that information.

You are in a one person household. You expect to file you 2015 income taxes as single.

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You reside in Westchester County, New York, where the second lowest cost silver plan available for a couple through the Marketplace costs \$372.40 per month.

An annual income of \$22,302.72 is 191.11% of the 2014 Federal Poverty Level (FPL) for a two-person household. At 191.11% of the FPL, the expected contribution to the cost of the health insurance premium is 5.93% of income, or \$110.21 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 (\$372.40 per month) minus your expected contribution (\$110.21 per month), which equals \$262.19 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$262 per month in APTC.

The second issue is whether you were properly found 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 \$22,302.72 is 191.11% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). If your household's income you reported to the Marketplace differs from the amount you report on your 2015 income tax return, you may be responsible for a tax penalty.

Since the February 25, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$262 per month in APTC and eligible for cost sharing reductions, it is correct and is **AFFIRMED**.

Decision

The February 25, 2015 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: December 16, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$262.00 in advance premium tax credit.

This decision has no effect on subsequent eligibility determinations made after the February 25, 2015 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.

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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Summary

The February 25, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$262.00 in advance premium tax credit.

This decision has no effect on subsequent eligibility determinations made after the February 25, 2015 determination.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

