



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

Notice of Decision

Decision Date: June 30, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001939

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On April 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 5, 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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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 \$94.00 per month in advance premium tax credit, effective April 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions, effective April 1, 2015?

Procedural History

On March 4, 2015, the Marketplace received your modified application for health insurance. That day, the Marketplace made a preliminary eligibility determination that stated you were eligible for up to \$94.00 per month in advance premium tax credits (APTC) and cost-sharing reductions.

Also on March 4, 2015, you spoke with the Marketplace's Account Review Unit and appealed that preliminary eligibility determination as it related to the amount of APTC and cost-sharing reductions you were found eligible for.

On March 5, 2015, the Marketplace issued an eligibility determination notice that stated, effective April 1, 2015, you were eligible to receive up to \$94.00 per month in APTC and, if you enrolled in a silver level health plan, cost-sharing reductions.

On April 2, 2015, you had a 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.

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Findings of Fact

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

- 1) You testified that you plan on filing your 2015 tax return with a tax filing status of head of household. You will claim three children as dependents on that tax return.
- 2) At the time of the March 5, 2015 eligibility determination, your application listed an annual household income of \$50,000.09.
- 3) You testified that your anticipated income for 2015 is \$50,000.00.
- 4) You testified that you do not plan on taking any deductions on your 2015 tax return.
- 5) Prior to the hearing you uploaded four paystubs to your Marketplace account, dated 1/09/2015, 1/23/2015, 2/06/2015, and 2/20/2015. Each paystub is for the gross pay amount of \$1,923.08.
- 6) Prior to the hearing you uploaded two 2014 W-2 forms. One was for the gross pay amount of \$29,803.48 and the second was for the gross pay amount of \$15,617.03.
- 7) You testified that you reside in ██████ County, NY.

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

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- 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 \$23,850.00 for a four-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).

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 plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$94.00 per month.

In the application that was submitted on March 4, 2015, you attested to earning \$1,923.08 every other week, for an expected yearly household income of \$50,000.08; the Marketplace calculated annual earnings as \$50,000.09, and the eligibility determination relied upon that information. You provided copies of your W-2's from 2014 which show a gross income of \$45,410.01; however your APTC amount is based off of anticipated income for 2015 and you offered paystubs

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from 2015 as well as credible testimony to support an expected household income of \$50,000.08 for 2015.

According to the record there are four people in your household. You plan on filing your 2015 tax return with a tax filing status of head of household, and will claim three dependents on that tax return.

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

An annual income of \$50,000.08 is 209.64% of the 2014 federal poverty level (FPL) for a four-person household. At 209.64% of the FPL, the expected contribution to the cost of the health insurance premium is 6.68% of income, or \$278.33 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 (\$278.33 per month) which equals \$93.42 per month. Rounding to the nearest dollar, the Marketplace should have determined your APTC to be \$93.00 per month; instead it found you eligible to receive up to \$94.00 per month in APTC.

However, this difference is minimal, and can be reconciled when you file your tax return for the 2015 tax year.

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 \$50,000.09 is 209.64% of the 2014 FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

Although the March 5, 2015 eligibility determination stated that you were eligible for cost-sharing reductions and an APTC of up to \$94.00 per month instead of \$93.00, the difference is minimal. It is therefore AFFIRMED.

Decision

The March 5, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: June 30, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$94.00 per month in advance premium tax credit.

You remain eligible for cost sharing reductions if you enroll in a silver level health plan.

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
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Summary

The March 5, 2015 eligibility determination is AFFIRMED.

You remain eligible for up to \$94.00 per month in advance premium tax credit.

You remain eligible for cost sharing reductions if you enroll in a silver level health plan.

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]