



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

Notice of Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002149

[REDACTED]

Dear [REDACTED],

On October 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 10, 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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Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]
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[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 an advance premium tax credit of up to \$163.00 per month, effective April 1, 2015?

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

Procedural History

On February 6, 2015, the Marketplace received a letter issued by the [REDACTED] directing your employer, [REDACTED] to withhold approximately 10% of your gross wages in connection with a monetary judgement entered against you by the [REDACTED], and to deliver such amounts to the [REDACTED].

On March 6, 2015, the Marketplace received copies two earnings statements issued to you by your employer on February 20, 2015 and March 6, 2015.

On March 10, 2015, the Marketplace issued an eligibility determination notice based on the information contained in your March 9, 2015 updated application, stating that you were eligible for an advance premium tax credit (APTC) of up to \$163.00 per month, and, if you selected a silver-level plan, cost-sharing reductions (CSR). This notice also stated that you were not eligible for Medicaid. The eligibility determination was effective as of April 1, 2015.

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Also on March 10, 2015, the Marketplace issued an enrollment notice confirming that you selected a silver-level qualified health plan (QHP) for your coverage on March 10, 2015. This notice further stated that your coverage could begin as early as April 1, 2015 provided your first month's premium was received.

On March 23, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the March 10, 2015 eligibility determination insofar as it found you eligible for APTC no greater than \$163.00 per month.

On May 12, 2015, the Marketplace issued a cancellation notice confirming that coverage under your silver-level QHP would be cancelled effective April 1, 2015 due to non-payment of premiums.

On October 5, 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

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

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of Head of Household, and that you would claim your daughter as your sole dependent on that tax return.
- 2) You are seeking insurance for yourself only, since your daughter had been found eligible for Child Health Plus.
- 3) The application that was submitted on March 9, 2015 listed annual household income of \$35,717.50, consisting entirely of earnings you received from your employer. You testified that this was not an accurate calculation of your expected income during 2015 and that this was apparently calculated by a Marketplace representative. You further testified that your actual expected earnings during 2015 would not be greater than \$33,600.00 prior to taking into account any wage garnishments by the [REDACTED].
- 4) On February 6, 2015, you provided a letter issued by the [REDACTED] directing your employer, [REDACTED] to withhold approximately 10% of your gross wages in connection with a monetary judgement entered against you by the [REDACTED], and to deliver such amounts to the [REDACTED].

- 5) On March 6, 2015, you provided copies of earning statements issued to you by your employer, [REDACTED] reflecting that you received (1) \$1,365.00 on February 20, 2015 and (2) \$1,382.50 on March 6, 2015. The wage garnishment is reflected as a \$140.00 withholding on each of the earnings statements provided to the Marketplace.
- 6) You testified that you are compensated at a rate of \$17.50 per hour and typically work 40 hours per week. You further testified that you are paid once every two weeks.
- 7) Your application states that you will not be taking any deductions on your 2015 tax return.
- 8) Your application states that you live 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 generally 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, (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

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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 federal poverty level (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).

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 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)).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) 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)).

There is no provision in law or regulation that allows the deduction of wage garnishments, an income execution by the County Sheriff, or any installment payment agreement relating to tax payments.

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 \$163.00 per month.

The application that was submitted on March 9, 2015 listed an annual household income of \$35,717.50. You testified that this was not an accurate estimation of your expected income for 2015 after having provided to the Marketplace the earnings statements issued to you by your employer on February 20, 2015 and March 6, 2015.

You testified, and the earnings statements reflect, that you were paid once every two weeks. You received \$1,365.00 and \$1,382.50 on February 20, 2015 and March 6, 2015, respectively. Your four weeks of earnings totaled \$2,747.50. In order to determine your average weekly earnings, the Marketplace divided your four weeks of \$2,747.50 figure by four, which equals \$686.875 per week. In order to determine your expected annual income during 2015, it then multiplied the average weekly earnings of \$686.875 by 52 weeks, which equals \$35,717.50.

You also provided documents reflecting that your income was subject to a wage garnishment. The current laws and regulations do not permit the Marketplace to deduction these garnishments from your overall income.

Accordingly, we find that the Marketplace properly determined your expected annual income to be \$35,717.50. The Marketplace relied on this figure in issuing its determination.

You are in a two-person household. You expect to file you 2015 income taxes as head of household and will claim your daughter as a dependent on that tax return.

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

An annual income of \$35,717.50 is 227.07% of the 2014 FPL for a two-person household. At 227.07% of the FPL, the expected contribution to the cost of the health insurance premium is 7.29% of income, or \$217.06 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 (\$217.06 per month), which equals \$162.87 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$163.00 per month in APTC.

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The second issue is whether you were properly found eligible for cost-sharing reductions (CSR).

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 \$35,717.50 is 227.07% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

Since the March 10, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$163.00 per month in APTC and eligible for CSR, it is correct and is AFFIRMED.

The Marketplace's open enrollment period for 2016 insurance plans runs from November 15, 2015 to February 15, 2016. For more information on open enrollment, consult the New York State of Health website (<https://nystateofhealth.ny.gov>).

Decision

The March 10, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 10, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit up to \$163.00.

You remain eligible for cost-sharing reductions.

The Marketplace's open enrollment period for 2016 insurance plans runs from November 15, 2015 to February 15, 2016. For more information on open enrollment, consult the New York State of Health website (<https://nystateofhealth.ny.gov>).

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.

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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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 10, 2015 eligibility determination is **AFFIRMED**.

You remain eligible for an advance premium tax credit (APTC) up to \$163.00 and for cost-sharing reductions (CSR).

The Marketplace's open enrollment period for 2016 insurance plans runs from November 15, 2015 to February 15, 2016. For more information on open enrollment, consult the New York State of Health website (<https://nystateofhealth.ny.gov>).

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

