



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

Notice of Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002206

[REDACTED]

Dear [REDACTED],

On May 1, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 15, 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 \$216.00 per month in advance premium tax credit (APTC)?

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

Procedural History

On February 14, 2015 the Marketplace received your modified application for health insurance.

On February 15, 2015 the Marketplace issued an eligibility determination notice. That notice stated that you were newly eligible to receive an APTC amount of up to \$216.00 per month and newly eligible to receive cost sharing reductions if you enrolled in a silver level health plan, effective March 1, 2015.

On March 26, 2015 you spoke with the Marketplace's Account Review Unit and appealed that eligibility determination as it relates to the amount of APTC you were eligible for.

On May 1, 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.

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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 single. You will claim one dependent on that tax return.
- 2) At the time of the February 15, 2015 eligibility determination your application listed an annual household income of \$30,615.79. This amount consisted of \$39,195.79 in income that you earned from a job and an "other adjustments" deduction of \$8,580.00.
- 3) You testified that you expect to make around \$39,195.79 from your job in 2015.
- 4) You testified that you will not be taking any deductions on your income tax return. You further testified that you did not know what the \$8,580.00 deduction that was listed on your application is because a certified application counselor completed the application for you and may have entered that number in error.
- 5) You testified that you reside in Queens County.
- 6) You testified that you cannot afford to pay your insurance premium without more tax credit.

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 the 2015 tax year 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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution for the 2015 tax year is between 4.02% and 6.34% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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)).

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)).

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“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)).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or 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

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$216.00 per month.

In the application that was submitted on February 14, 2015, you attested to an expected yearly income of \$30,615.79, and the eligibility determination relied upon that information.

According to the record there are two people in your household. You plan on filing your 2015 tax return as single, and will claim one dependent on that tax return.

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

An annual income of \$30,615.79 is 194.63% of the 2014 FPL for a two-person household. At 194.63% of the FPL, the expected contribution to the cost of the health insurance premium is 6.09% of income, or \$155.38 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 (\$155.38

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per month), which equals \$216.37 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be up to \$216.00 per month.

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 \$30,615.79 is 194.63% of the 2014 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

Since the February 15, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$216.00 per month, and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

However, at the hearing you testified to a household income that was different than the amount listed in your application at the time of the February 15, 2015 eligibility determination. You testified that you expect to make \$39,195.79 in income from your job, however the \$8,580.00 deduction that is listed in your Marketplace application is not one you intend on taking and that it may have been added to your application in error.

Therefore, your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on a household of two people, an annual household income of \$39,195.79, and a county of residence of Queens County.

You testified that you cannot afford to pay the monthly insurance premium. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the federal marketplace website (www.healthcare.gov) for an application.

Decision

The February 15, 2015 eligibility determination is AFFIRMED.

Your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on a household of two people, an annual household income of \$39,195.79, and a county of residence of Queens County.

Effective Date of this Decision: August 21, 2015

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility for financial assistance.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for financial assistance based on a household of two people, an annual household income of \$39,195.79, and a county of residence of Queens County.

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:
NY State of Health Appeals
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- By fax: 1-855-900-5557

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Summary

The February 15, 2015 eligibility determination is AFFIRMED.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for financial assistance based on a household of two people, an annual household income of \$39,195.79, and a county of residence of Queens County.

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]