



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: AP000000002220

[REDACTED]

Dear [REDACTED],

On May 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 5, 2014 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).

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NY State of Health Number: [REDACTED]
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Issue

The issue presented for review by the Appeals Unit of the NY State of Health is:

Did the Marketplace properly apply \$291.00 of advance premium tax credits per month to your January, February, and March 2015 premiums, when you were determined eligible to receive up to \$319.00 per month of advance premium tax credits effective January 1, 2015?

Procedural History

On December 4, 2014, you updated your Marketplace application to reflect a change in income for the Marketplace to redetermine your eligibility for health insurance coverage in 2015.

On December 5, 2014, the Marketplace issued a notice of eligibility redetermination that you are eligible to receive up to \$319.00 of advance premium tax credits (APTC) and, if you select a silver-level qualified health plan (QHP), for cost-sharing reductions (CSR) effective January 1, 2015. That notice also informed you that you can apply all or part of the monthly APTC amount to your monthly premium when you enroll in a QHP.

On December 10, 2014, the Marketplace issued a letter confirming your enrollment in PrimarySelect PCMH Silver NS INN Dep25 Acupuncture (PrimarySelect Silver) with a premium responsibility of \$113.16 after \$291.00 of APTC was applied to the monthly

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cost of the plan of \$404.16. The letter also stated that health insurance coverage will begin after you have paid your first month's premium and could start as early as January 1, 2015.

On March 27, 2015, you spoke with the Marketplace's Account Review Unit and appealed the \$291.00 amount of APTC that was being applied because you wanted the maximum amount of \$319.00 of APTC applied as of January 1, 2015.

On March 28, 2015, the Marketplace issued a notice of eligibility redetermination that you are newly eligible to receive up to \$319.00 per month of APTC and, if you select a silver-level QHP, eligible for CSR, effective January 1, 2015.

That same day, the Marketplace issued a letter confirming your enrollment in PrimarySelect Silver with a premium responsibility of \$85.16 after the maximum APTC of \$319.00 was applied. That letter also stated that health insurance coverage will begin after you have paid your first month's premium and could start as early as January 1, 2015.

On May 8, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was closed at the end of the hearing.

Findings of Fact

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

- 1) You are single, have no dependents, and plan on filing your 2015 federal income tax return as Single. You will not be claiming any dependents on that tax return.
- 2) According to your Marketplace account and your testimony, you expect to earn \$16,998.00 in 2015.
- 3) You stated that you found the online application process confusing to use for your 2015 enrollment so you enlisted the assistance of a Marketplace representative in December 2014 to complete your application for health insurance in 2015. You testified that the representative helped you select a plan and said you were all set.
- 4) You testified you intended to have the maximum advance premium tax credits (APTC) of \$319.00 applied monthly beginning with your January 2015 premium and had not requested a lesser amount be applied.

- 5) You received a premium invoice from Health Republic Insurance of New York that your January 2015 premium responsibility for PrimarySelect Silver was \$113.16 and that only \$291.00 in APTC had been applied, which was your APTC amount for 2014.
- 6) You testified that you spoke with Marketplace representatives in January and February 2015, but they were not able to apply your maximum APTC of \$319.00 to your monthly premiums. The APTC amount of \$291.00 continued to be applied in January, February, and March 2015.
- 7) You testified that you spoke with another Marketplace representative on March 27, 2015, and that person explained that you did not “click the button” to have your maximum APTC applied as of January 2015 so the system reverted to your 2014 maximum APTC of \$291.00 and applied that amount. You testified and your Marketplace account reflects that your maximum APTC of \$319.00 was to be applied going forward, that is, as of April 1, 2015.
- 8) You testified that you paid your monthly premium responsibility of \$113.16 for the months of January, February, and March 2015, and received a premium invoice for April 2015, with a \$28.00 credit for that month.
- 9) You want your maximum APTC of \$319.00 applied to January, February, and March 2015 premiums.

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)).

People who use the APTC have the option to use all of their estimated APTC, or a part, to help pay health insurance premiums. This tax credit is claimed (1) ***in advance*** during the year; or (2) when the individual files taxes. People using APTC must file a federal tax return and reconcile their expected income (stated on the Marketplace application)

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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).

Legal Analysis

The issue is whether the Marketplace properly applied the advance premium tax credit (APTC) in the amount of \$291.00 for the months of January, February, and March 2015.

Here the Marketplace's December 10, 2014 letter informed you that \$291.00 of your maximum amount of \$319.00 was being applied to the cost of your monthly premiums, leaving you with a monthly premium responsibility of \$113.16. You contend, however, that it was your intention to apply the maximum APTC of \$319.00, which you assumed was automatically applied in the same manner as your maximum APTC of \$291.00 had been applied in 2014.

You further credibly testified and the record reflects that you attempted to correct the APTC with Marketplace representatives in January and February 2015, but no change was made until March 27, 2015, when a Marketplace representative located the problem and updated your application by clicking on the button to allow you to apply the maximum APTC amount of \$319.00. You testified Health Republic Insurance of New York applied the APTC amount of \$319.00 via a credit to your April 2015 premium invoice, so that the correct amount was applied that month.

It appears from the record that you were entitled to an additional APTC of \$28.00 per month for the months of January, February, and March 2015. There are only two options for claiming APTC, that is, in **advance** of the month in which the monthly premium is due or when you file your taxes. Therefore, the \$28.00 difference per month of APTC for the months of January, February, and March 2015 could only have been applied in advance and, therefore, cannot be applied retroactively. However, at the end of the tax year, if you are entitled to a premium tax credit totaling \$319.00 per month for the months at issue, you can reconcile that credit on your federal income tax return. If you should have received a tax credit greater than the \$291.00 that was applied during these three months, you may claim that tax credit difference when you file your 2015 income tax return and be entitled to a refund.

Decision

The December 5, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 10, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

If you are entitled to a greater tax credit for the months of January, February, and March 2015, you may claim that credit on your 2015 federal income tax return and may be entitled to a refund.

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

Summary

The December 5, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

If you are entitled to a greater premium tax credit for the months of January, February, and March 2015, you may claim that credit on your 2015 federal income tax return and may be entitled to a refund.

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:



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