



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

Notice of Decision

Decision Date: July 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002252

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Dear [REDACTED],

On May 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 1, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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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[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that you are conditionally eligible for up to \$125.00 per month in advance premium tax credit as of March 31, 2015?

Procedural History

The Marketplace received your updated application for health insurance on March 31, 2015. That day, a preliminary eligibility redetermination was prepared that stated you are conditionally eligible to receive up to \$125.00 of advance premium tax credit (APTC) effective May 1, 2015.

Also on March 31, 2015, you contacted the Marketplace's Account Review Unit and appealed that preliminary determination insofar as that the health plans that were offered to you by the Marketplace were not affordable.

On April 1, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the March 31, 2015 preliminary determination. That notice also stated that you are not eligible for cost-sharing reductions or Medicaid because the income you provided of \$32,878.00 was over the allowable income limit for each of these programs. It also requested additional information by June 29, 2015 to confirm your income.

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On April 3, 2015, the Marketplace issued a notice of eligibility redetermination that contained the same information as the April 1, 2015 notice. It also stated that you qualify to select a health plan outside the open enrollment period and must review your options and confirm your selection by May 31, 2015.

On April 4, 2015, the Marketplace issued a disenrollment notice that your coverage with your qualified health plan terminated effective January 31, 2015 due to non-payment of premium.

On May 5, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and closed at the end of the hearing.

Findings of Fact

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

- 1) According to your Marketplace account and your testimony, you are single, have no dependents, and plan on filing your 2015 federal income tax return as Single.
- 2) You testified that you are not necessarily disputing the amount of advance premium tax credit to which you are entitled but you find that the plans offered through the Marketplace are not affordable to you and do not take into account your monthly living expenses.
- 3) You testified that you were told by Marketplace representatives in January and February 2015 before open enrollment ended that you cannot switch to a lesser expensive plan, such as a bronze plan.
- 4) You testified that your expected 2015 annual income of \$32,878.00, as reported on your Marketplace account, is accurate.
- 5) You testified that you were disenrolled on January 31, 2015 from your silver-level qualified health plan (QHP) for not paying your monthly premium because you could not afford to pay any more premiums at \$299.82 per month.
- 6) You stated that you now understand that you qualify for a special enrollment period as stated in the April 3, 2015 notice and can seek the assistance of a Navigator or Certified Account Counselor to review your plan options and make a plan selection. You also understand that your plan selection must be made by May 31, 2015.
- 7) You reside in New York County, New York.

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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 the 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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

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For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Legal Analysis

Initially, the issue was whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$125.00 per month.

In the application that was submitted on November 19, 2014, you attested to an expected yearly income of \$32,878.00. The eligibility determination relied upon that information.

According to the record, you are the only person in your tax household.

You reside in New York County, where the second lowest cost silver plan available for an individual through the Marketplace in 2015 costs \$371.75 per month.

An annual income of \$32,878.00 is 281.73% of the 2014 federal poverty level (FPL) for a one-person household. At 281.73% of the FPL, the expected contribution to the cost of the health insurance premium is 9.02% of income, or \$247.13 per month.

The maximum amount of advance premium tax credit 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 (\$247.13 per month), which equals \$124.62 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$125.00 per month.

Since the April 1, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$125.00 per month, it is correct and is AFFIRMED.

Decision

The April 1, 2015 notice of eligibility redetermination is AFFIRMED.

Effective Date of this Decision: July 15, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$125.00 per month.

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):

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- By calling the Customer Service Center at 1-855-355-5777
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Albany, NY 12211
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Summary

The April 1, 2015 notice of eligibility redetermination is AFFIRMED.

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$125.00 per month.

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] [REDACTED]
[REDACTED]