



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

Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002263

[REDACTED]

Dear [REDACTED],

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

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 Code of Federal Regulation (CFR) 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002263

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Issue

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

Did the Marketplace properly determine on April 1, 2015 that you were eligible to receive an advance premium tax credit of up to \$116.00 per month, effective May 1, 2015?

Procedural History

On March 5, 2014, the Marketplace issued you a notice that “you have chosen to receive all information from New York State of Health electronically. This means that all important notifications will be sent to your Marketplace account.”

On November 6, 2014, the Marketplace issued a renewal notice stating that the New York State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind of coverage you could have for 2015. The notice directs you to “update the information on your [Marketplace] account by December 15, 2014 so we can make an appropriate decision. If you miss the deadline, the financial assistance you are getting now may end.”

As of December 15, 2014, your Marketplace account had not been updated.

On December 22, 2014, the Marketplace issued an eligibility determination notice that you are eligible to purchase a qualified health plan at full cost through New York State of Health, effective January 1, 2015.

On the same day, the Marketplace issued an enrollment notice confirming that you are enrolled in EssentialCare Silver ST INN Dep25 and that coverage could start as early as January 1, 2015.

On April 1, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were newly eligible to receive up to \$116.00 monthly in advance premium tax credits, effective May 1, 2015.

On the same day, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as the effective date that the tax credits would be applied to your monthly health insurance 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

- 1) You testified that you did not receive any notices from the Marketplace, either by email or US mail, telling you that you needed to update the information in your Marketplace to ensure that your financial assistance would not be interrupted.
- 2) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 3) You testified that you did know you needed to renew your application until you began to receive bills for your monthly insurance premiums from your health insurance carrier.
- 4) You testified to having the same email address that is currently listed in your Marketplace account.
- 5) You were enrolled in a qualified health plan through the Marketplace effective January 1, 2015.
- 6) You testified that you still owe the health insurance premiums for the months of January, February and March 2015.
- 7) You are seeking to have your tax credits applied to your monthly health insurance premiums effective January 1, 2015.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the projected eligibility determination for the following year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)).

Notice of Annual Open Enrollment Period:

Starting in 2014, the Marketplace must provide a written annual open enrollment notification to each enrollee no earlier than the first day of the month before the open enrollment period begins and no later than the first day of the open enrollment period (45 CFR § 155.410(d)).

Open Enrollment Period:

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)).

The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)).

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were eligible to receive up to \$116.00 of advance premium tax credits, effective May 1, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the projected eligibility determination for the following year. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

The Marketplace must also provide a written annual open enrollment notification to each enrollee no earlier than the first day of the month before the open enrollment period begins and no later than the first day of the open enrollment period. During this enrollment period, qualified individual may enroll in a health plan and enrollees may change health plans through the Marketplace.

On November 6, 2014, the Marketplace issued a renewal notice stating that the New York State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind of coverage you could have for 2015. The notice directs you to "update the information on your [Marketplace] account by December 15, 2014 so we can make an appropriate decision. If you miss the deadline, the financial assistance you are getting now may end."

However, the record reflects, that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that you did not receive the renewal notices and had not received any notices asking you to update your account and enroll in a new health plan through the Marketplace.

Therefore, it is concluded that the Marketplace did not give you the proper notice that you needed to enroll in a new health plan through the Marketplace.

You updated your account through the Marketplace for 2015 on March 31, 2015, and therefore we must assume that this is the information that would have been used had you been properly notified that you needed to update your account, as stated in the renewal notice.

Therefore, the April 1, 2015, notice of eligibility is MODIFIED to state that you are eligible to receive up to \$116.00 of advance premium tax credit and cost-sharing reductions, if you enroll in a silver-level health plan, effective January 1, 2015.

Decision

The April 1, 2015, notice of eligibility is MODIFIED to state that you are eligible to receive up to \$116.00 per month of advance premium tax credit, effective January 1, 2015.

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

You are eligible for up to \$116.00 per month of advance premium tax credit, effective January 1, 2015.

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:

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).

- By calling the Customer Service Center at 1-855-355-5777
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 - NY State of Health Appeals
 - P.O. Box 11729
 - Albany, NY 12211
- By fax: 1-855-900-5557

Summary

Therefore, the April 1, 2015, notice of eligibility is MODIFIED to state that you are eligible to receive up to \$116.00 per month of advance premium tax credit, effective January 1, 2015.

Accordingly, you are eligible for up to \$116.00 per month of advance premium tax credit, effective January 1, 2015.

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:

