



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

Notice of Decision

Decision Date: July 30, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002383

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On May 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 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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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 \$162.00 monthly of advance premium tax credit (APTC) as of April 10, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions as of April 10, 2015?

Procedural History

On February 21, 2015, you uploaded income documentation to your Marketplace Account.

On April 9, 2015, the Marketplace reran your eligibility for financial assistance. The Marketplace rendered a preliminary eligibility determination that you are eligible to receive up to \$162.00 monthly in advance premium tax credits.

On April 10, 2015, the Marketplace issued an eligibility determination notice stating that you are eligible to receive up to \$162.00 monthly in advance premium tax credits. The notice also found you not eligible for cost-sharing reductions and Medicaid because the household income you provided is over the allowable income limit.

On April 11, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible to receive.

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).

On May 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was left open until May 25, 2015 to allow you to submit additional information. You did not submit additional information within the allotted time. The record is now closed.

Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself only.
2. You testified that you plan on filing a 2015 federal income tax return with the tax status of single and will not claim any dependents on that tax return.
3. On February 21, 2015, you uploaded to your Marketplace Account four weekly pay stubs from your employer:
 - (A) The January 6, 2015 pay stub indicates that you received \$647.28 gross earnings from your wage rate and tips.
 - (B) The January 13, 2015 pay stub indicates that you received \$468.83 gross earnings from your wage rate and tips.
 - (C) The January 20, 2015 pay stub indicates that you received \$473.50 gross earnings from your wage rate and tips.
 - (D) The January 27, 2015 pay stub indicates that you received \$732.81 gross earnings from your wage rate and tips.
4. You testified that you are employed as a bartender and that your pay stubs do not accurately reflect the amount you receive as a wage rate and tips.
5. You testified that you receive \$400.00 weekly in income from your employment.
6. You were directed to supply additional income documentation to corroborate your testimony. No additional documentation was provided.
7. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.
8. You currently reside in Kings County, NY.

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

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Applicable Law and Regulations

Advance Premium Tax Credit:

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2014 federal 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 qualified health plan; 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).

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 (see 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 benefit year for which coverage is requested. (45 CFR § 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).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

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 advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent 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)).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan QHP. Such an exemption may be granted if that person can show that 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 qualified health plan (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

According to the record, you have a one-person tax household. You expect to file your 2015 federal income tax return with the tax status of single and not claim any dependents on that return.

On February 21, 2015, you submitted four consecutive weekly pay stubs that indicate you received \$2,322.42 in an hourly wage rate and tips. The April 9, 2015 eligibility determination was based on an annual household income of $(\$2,322.42 \times 13) \$30,191.00$, which was computed based on the employee pay stubs you uploaded to your Marketplace Account on February 21, 2015.

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

An annual household income of \$30,191.00 equals 258.71% of the 2014 federal poverty level (FPL) for a one-person household. At 258.71% of the FPL, the expected contribution to the cost of the health insurance premium is 8.35% of income, or \$210.18 per month.

The maximum amount of advance premium tax credit (APTC) that can be awarded equals the cost of the second lowest cost silver plan in your county

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(\$371.75 per month) minus your expected contribution (\$210.18 per month), which equals \$161.57 per month. Therefore, the Marketplace correctly computed your APTC to be \$162.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 258.71% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found not eligible for cost-sharing reductions.

However, you testified that the employee pay stubs did not accurately reflect the amount of income you receive from your employment. You testified that you receive approximately \$400.00 weekly.

You were directed to upload additional income documentation to your Marketplace Account by May 25, 2015 to corroborate this testimony. No additional documentation was uploaded to your Marketplace within the allotted time.

Since the April 10, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$162.00 per month and not eligible for cost-sharing reductions, it is correct and is AFFIRMED.

Decision

The April 10, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 30, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$162.00 per month.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

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 April 10, 2015 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$162.00 per month.

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If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

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]