



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

Notice of Decision

Decision Date: October 19, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002483

[REDACTED]

Dear [REDACTED],

On May 21, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 8, 2015 eligibility determination and April 10, 2015 enrollment 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 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 NY State of Health is:

Did the Marketplace properly determine that you were eligible to receive an advance premium tax credit of up to \$82.00 per month, effective May 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

Did the Marketplace correctly determine that your advance premium tax credit of \$82.00 per month could not be applied toward the cost of your CDPHP catastrophic plan?

Procedural History

On April 8, 2015, the Marketplace issued an eligibility determination notice stating that you were eligible to enroll in a qualified health plan (QHP) and eligible to receive an advance premium tax credit (APTC) of up to \$82.00 per month, effective May 1, 2015, towards that QHP. The notice also stated that you were not eligible for either cost-sharing reductions (CSR) or Medicaid. This determination was based, in part, on annual household income of \$36,420.00.

On April 10, 2015, the Marketplace issued an enrollment notice confirming, as of April 9, 2015, your selection and enrollment in a CDPHP catastrophic plan at a premium rate of \$273.10 per month and a Guardian dental plan at a premium

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rate of \$15.04 per month. The notice further stated that if you paid your first month's premium, your coverage could begin as early as May 1, 2015.

On April 18, 2015, you spoke with the Marketplace's Account Review Unit and appealed the April 10, 2015 enrollment notice insofar as your APTC of \$82.00 per month could not be applied to reduce the premium of your CDPHP catastrophic plan.

On May 21, 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

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

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of single. You further testified that you would not be claiming any dependents on that tax return.
- 2) You are seeking insurance for yourself only.
- 3) The application that was submitted on April 7, 2015 listed an annual household income of \$36,420.00, consisting solely of earned income you receive from your employment. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2015 tax return.
- 5) Your application states that you live in Ulster County, New York.
- 6) You testified that the Marketplace website plan selection options are confusing and did not make it clear that your tax credit could not be applied to the cost of a catastrophic plan. You further testified that this heavily influenced your decision on selecting a catastrophic plan in the first place.
- 7) You testified that as a result of not being able to apply your tax credits to the cost of the CDPHP catastrophic plan, it has become too expensive. This forced you to switch your coverage to a bronze-level plan, which is still too expensive even after applying the maximum amount of tax credits available to you.

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 (APTC) is generally 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 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 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).

For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution is 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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 first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Catastrophic Plan

Catastrophic plans available through the Marketplace are not eligible for APTC and CSR (45 CFR § 156.440(a)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$82.00 per month.

The application that was submitted on April 7, 2015 listed an annual household income of \$36,420.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file you 2015 income taxes as single and will not be claiming any dependents on that tax return.

You reside in Ulster County, New York, where the second lowest cost silver plan available for an individual through the Marketplace costs \$372.38 per month.

An annual income of \$36,420.00 is 312.08% of the 2014 federal poverty level (FPL) for a one-person household. At 312.08% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$290.17 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest silver plan available through the Marketplace for a primary subscriber and one dependent in your county (\$372.38 per month) minus your expected contribution (\$290.17 per month), which equals \$82.21 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$82.00 per month in APTC.

The second issue is whether you were properly found ineligible for cost-sharing reductions (CSR).

CSRs are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$36,420.00 is 312.08% of the applicable FPL, the Marketplace correctly found you to be ineligible for CSR. Since the April 8, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$82.00 per month in APTC and ineligible for CSR, it is correct and is AFFIRMED.

The final issue is whether the Marketplace properly determined that the APTC of \$82.00 per month could not be applied to your CDPHP catastrophic plan.

On April 9, 2015, you selected a catastrophic plan through the Marketplace. Federal regulations prohibit the Marketplace from applying the APTC of \$82.00 per month toward the cost of the catastrophic plan.

Accordingly, the April 10, 2015 enrollment notice is AFFIRMED.

Decision

The April 8, 2015 eligibility determination is AFFIRMED.

The April 10, 2015 enrollment notice is AFFIRMED.

Effective Date of this Decision: October 19, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$82.00 in APTC.

You remain ineligible for CSR.

The APTC amount cannot be applied toward the cost of the CDPHP catastrophic plan.

This Decision has no effect on any subsequent eligibility determination or enrollment notice issued by the Marketplace on or after April 10, 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

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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 8, 2015 eligibility determination is AFFIRMED.

The April 10, 2015 enrollment notice is AFFIRMED.

You remain eligible for up to \$82.00 in APTC.

You remain ineligible for CSR.

The APTC amount cannot be applied toward the cost of the CDPHP catastrophic plan.

This Decision has no effect on any subsequent eligibility determination or enrollment notice issued by the Marketplace on or after April 10, 2015.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

