



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: AP000000002484

[REDACTED]

Dear [REDACTED]

On July 1, 2015, you and your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 13, 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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Decision Date: October 19, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002484



Issue

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

Did the Marketplace properly determine that your eligibility for an advance premium tax credit of up to \$171.00 per month and cost-sharing reductions was effective March 1, 2015?

Procedural History

On November 4, 2014, the Marketplace issued a notice that it was time for you to renew your health insurance for 2015. That notice stated that based on information from federal and state sources, the Marketplace found that you were qualified to enroll in a qualified health plan (QHP) and eligible for an advance premium tax credit (APTC) of up to \$80.27 per month, effective January 1, 2015. The notice also stated that you were not eligible for cost-sharing reductions (CSR) or Medicaid. Finally, the notice stated that if you needed to make any changes to your account you would need to do so between November 16, 2014 and December 15, 2014 for any changes to be effective January 1, 2015.

No updates were made to your account by December 15, 2014.

On December 13, 2014, the Marketplace issued a letter confirming your enrollment in the PrimarySelect silver-level plan, with a monthly premium responsibility of \$215.46, after applying the maximum APTC amount of \$80.27. The letter also stated that your coverage could start as early as January 1, 2015, provided you paid your first month's premium.

On February 12, 2015, the Marketplace received your updated application for health insurance.

On February 13, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were eligible to enroll in a QHP; eligible to receive an APTC up to \$171.00 per month; and if you selected a silver-level qualified health plan, newly eligible for CSR. This eligibility was effective March 1, 2015.

That same date, the Marketplace issued a disenrollment notice confirming that your coverage under the PrimarySelect silver-level plan had been terminated, at your request, effective February 28, 2015.

Also on February 13, 2015, the Marketplace issued a letter confirming your enrollment in the TotalIndependence silver-level plan with a monthly premium responsibility of \$110.08, after an APTC of \$168.00 out of the maximum available APTC of \$171.00 was applied, effective March 1, 2015.

On April 19, 2015 you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it began your eligibility for an APTC of up to \$171.00 no earlier than March 1, 2015.

On July 1, 2015, on your behalf, your Authorized Representative, [REDACTED], 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 wanted [REDACTED] to act as your Authorized Representative for purposes of this appeal.
- 2) Your Marketplace account indicates that you receive notices from the Marketplace via electronic mail.
- 3) Your Authorized Representative testified that you likely received the e-mails from the Marketplace advising you that notifications had been posted to your account, but that you may not have understood what the e-mail was in connection with or that you may have inadvertently ignored it.
- 4) Your Authorized Representative testified that neither she nor you knew that you needed to renew your application by December 15, 2014 in order for changes to take effect by January 1, 2015.

- 5) Your Authorized Representative testified that you only realized that something was wrong when you started received bills for coverage during January and February 2015 reflecting a large premium increase that you had not anticipated.
- 6) Your Authorized Representative testified she updated the information in your Marketplace Account on February 12, 2015.
- 7) Your Authorized Representative testified that you paid two separate payments of \$215.46 for coverage during the months of January 2015 and February 2015. You then discontinued switched to the TotalIndependence silver-level plan for the month of March 2015 due the increased expense.

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 information by which the Marketplace will use to redetermine a qualified individual's eligibility for that 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)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Redetermination During a Benefit Year

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, the Marketplace must recalculate

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the amount of APTC in such a manner as to account for any advance payments already made (or not made) on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the benefit year (45 CFR § 155.330(g)).

End of Tax Year Reconciliation

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, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your eligibility for an advance premium tax credit (APTC) of up to \$171.00 per month and cost-sharing reductions (CSR) became effective on March 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 information by which the Marketplace will use to determine an individual's eligibility. 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.

On November 4, 2014, the Marketplace issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, the Marketplace found that you qualified to enroll in a qualified health plan (QHP) and were eligible for an APTC of up to \$80.27 per month, effective January 1, 2015. You were asked to update the information in your account by December 15, 2014 in order for any changes to take effect by January 1, 2015.

Your Authorized Representative testified you likely received the e-mails from the Marketplace advising you that notifications had been posted to your account, but that you may not have understood what the e-mail was in connection with or that you may have inadvertently ignored it. Accordingly, the record supports that these notices were properly issued to you.

The record shows that your application was updated on February 12, 2015. This resulted in the February 13, 2015 eligibility determination notice that stated you were eligible to receive an APTC up to \$171.00, and newly eligible to receive CSR. This eligibility was effective March 1, 2015.

When an individual changes information in their application before the 15th of any month, the Marketplace must make the redetermination that results from the change effective the first day of the next following month.

However, when APTC is recalculated mid-year, the Marketplace is required to prorate monthly amounts to reflect APTC that has already been received, to ensure that the APTC you receive during the entire year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2015 tax year. It appears that the Marketplace did not do this. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received this APTC for the entire 12 months of the year.

Therefore, your case is returned to the Marketplace to make a new determination of your eligibility for APTC.

Therefore, the Marketplace's February 13, 2015 eligibility determination is MODIFIED to continue your eligibility for APTC at a tentative rate of up to \$171.00 per month and CSR, effective March 1, 2015, pending an updated determination regarding the APTC amount.

Therefore, the matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the ten months of 2015.

Decision

The Marketplace's February 13, 2015 eligibility determination is MODIFIED to continue your eligibility for APTC at a tentative rate of up to \$171.00 per month and CSR, effective March 1, 2015, pending an updated determination regarding the APTC amount

The matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the ten months of 2015.

Effective Date of this Decision: October 19, 2015

How this Decision Affects Your Eligibility

You continue to be eligible to receive APTC at a tentative rate of \$171.00 per month, as well as CSR, effective March 1, 2015. However, this is not a final determination as to the amount of APTC you were entitled to as of March 1, 2015; this issue will be addressed in a future notice.

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
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Summary

The Marketplace's February 13, 2015 eligibility determination is MODIFIED to continue your eligibility for APTC at a tentative rate of up to \$171.00 per month and CSR, effective March 1, 2015, pending an updated determination regarding the APTC amount

The matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the ten months of 2015.

You continue to be eligible to receive to \$171.00 per month of APTC and CSR effective March 1, 2015. However, this is not a final determination as to the amount of APTC you were entitled to as of March 1, 2015; this issue will be addressed in a future notice.

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]