



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

Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002494

[REDACTED]

Dear [REDACTED],

On June 17, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 7, 2013 preliminary 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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NY State of Health Number: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Was your April 20, 2015 appeal request timely with regard to the Marketplace's November 7, 2013 preliminary eligibility determination?

Did the Marketplace properly determine that you were eligible to enroll in a qualified health plan at full cost on November 7, 2013?

Procedural History

The Marketplace received your application on November 7, 2013 and rendered a preliminary determination in your case. Based on your Non-Financial Assistance application, the Marketplace stated that you are eligible to enroll in a qualified health plan through the Marketplace.

On October 30, 2014 you updated your Marketplace Account. The Marketplace rendered a preliminary eligibility determination that you and your spouse are eligible for up to \$583.00 of advance premium tax credits per month and cost-sharing reductions, if you select a silver-level qualified health plan.

On November 3, 2014 you called the Marketplace's Customer Service Unit to request retroactive advance premium tax credits for the months of January 2014 through October 2014.

On November 27, 2014 the Marketplace issued an eligibility determination notice that you and your spouse are eligible for up to \$583.00 of advance premium tax credits per month and cost-sharing reductions, if you select a silver-level qualified health plan effective December 1, 2014.

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On April 20, 2015 the Marketplace entered an appeal request on your behalf.

On June 17, 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) The Marketplace received your initial health insurance application on November 7, 2013 for you and your spouse.
- 2) When you submitted your initial health insurance application on November 7, 2013 you completed a Non-Financial Assistance application.
- 3) You testified that you selected to be evaluated for financial assistance when completing the application on November 7, 2013.
- 4) You testified that you were able to change your health insurance application from a non-financial assistance application to a financial assistance application in October 2014 with the assistance of a navigator.
- 5) On October 30, 2014 the Marketplace rendered a preliminary eligibility determination that you and your spouse are eligible for up to \$583.00 of advance premium tax credits per month and cost-sharing reductions, if you select a silver-level qualified health plan.
- 6) You testified that you are seeking reimbursement for the tax credits you were entitled to for the months of January 2014 through November 2014.
- 7) You testified that you are seeking an updated Form 1095-A that includes the "Monthly Premium Amount of Second Lowest Cost Silver Plan (SLCSP)."

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

Applicable Law and Regulations

Appeal Requests

"The [Marketplace] and the appeals entity must allow an applicant or enrollee to request an appeal within (1) 90 days of the date of the notice of eligibility determination; or (2) A timeframe consistent with the state Medicaid

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agency's requirement for submitting fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination" (45 CFR § 155.520(b)).

Eligibility Process:

"The [Marketplace] must permit an applicant to request only an eligibility determination for enrollment in a QHP through the [Marketplace]; however, the [Marketplace] may not permit an applicant to request an eligibility determination for less than all insurance affordability program" (45 CFR § 155.310(b)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine that any change made after the 15th of any month will not be effective until the first of the next following month (45 CFR §155.330 (f)(2)), and the NY State of Health Marketplace has chosen to do so.

Legal Analysis

Here, there is a threshold issue on whether your April 20, 2015 appeal request was timely with regard to the Marketplace's November 7, 2013 determination. On November 7, 2013, the Marketplace made a preliminary determination that you were eligible to enroll in a full-pay qualified health plan.

The timeliness of an appeal request is calculated from the date on which the notice of eligibility determination is issued. Here, the Marketplace promptly made and implemented a determination on the November 7, 2013 application, but the record does not contain a written, dated notice of eligibility determination. Since there is no date from which a timeliness determination may be made pursuant to 45 CFR § 155.520(b), the Marketplace is deemed to have waived any timeliness objection to the instant appeal. Thus, we will continue to the next issue of your appeal.

The next issue is whether the Marketplace properly determined that you and your spouse were determined eligible to enroll in a qualified health plan at full cost.

In the application that was submitted on November 7, 2013 selected a Non-Financial Assistance application. Since the Marketplace must provide an applicant the option to request only an eligibility determination for enrollment in a QHP only, the Marketplace properly determined you eligible to enroll in a qualified health plan at full cost.

The November 7, 2013 preliminary eligibility determination was correct and is **AFFIRMED**.

At the hearing you raised an additional issue with your Form 1095-A Health Insurance Marketplace Statement. You testified that that the Form 1095-A Health Insurance Marketplace Statement incorrectly excludes the “Monthly Premium Amount of Second Lowest Cost Silver Plan (SLCSP).”

The Marketplace Appeals Unit is not the proper venue to assistance with the Form 1095-A. Please contact:

<http://info.nystateofhealth.ny.gov/taxcredits> or call Community Health Advocates’ Helpline at 1-888-614-5400.

NY State of Health at 1-855-355-5777

If you have questions about Form 1095-A or other tax-related questions, visit www.irs.gov.

Decision

The Marketplace is deemed to have waived any timeliness objection to your April 20, 2015 appeal of the November 7, 2013 determination.

The November 7, 2013 preliminary determination is **AFFIRMED**.

Effective Date of this Decision: September 3, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You and your spouse were eligible to enroll in a qualified health plan at full cost as of November 7, 2013.

You and your spouse are eligible for up to \$583.00 of advance premium tax credits per month and cost-sharing reductions, if you select a silver-level qualified health plan effective December 1, 2014.

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.

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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:

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- By mail at:
NY State of Health Appeals
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The Marketplace is deemed to have waived any timeliness objection to your April 20, 2015 appeal of the November 7, 2013 determination.

The November 7, 2013 preliminary determination is **AFFIRMED**.

This decision does not change your eligibility.

You and your spouse are eligible for up to \$583.00 of advance premium tax credits per month and cost-sharing reductions, if you select a silver-level qualified health plan effective December 1, 2014.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

