



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: AP000000002564

[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 April 23, 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

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).

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

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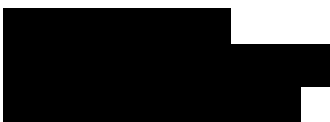


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Issue

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

Did the Marketplace properly determine that you, your spouse, and your daughter were conditionally eligible for an advance premium tax credits of up to \$806.00 per month, as well as cost-sharing reductions, effective no earlier than June 1, 2015?

Procedural History

On November 6, 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 could not make a decision about whether you, your spouse, and your daughter would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2014 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 20, 2014.

On December 22, 2014, the Marketplace issued a notice of eligibility redetermination stating that you, your spouse and your daughter were newly eligible to purchase a qualified health plan (QHP) at full cost through NY State of Health, effective January 1, 2015.

Also on December 22, 2014, the Marketplace issued a letter confirming your family's enrollment in a QHP, with a monthly premium responsibility of \$1,151.84.

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The letter also stated that your coverage could start as early as January 1, 2015, provided you paid your first month's premium.

On April 22, 2015, the Marketplace received your updated application for health insurance.

On April 23, 2015, the Marketplace issued a notice of eligibility redetermination stating that you, your spouse, and your daughter were newly eligible to enroll in a QHP; conditionally eligible to receive an advance premium tax credit (APTC) of up to \$806.00 per month; and, if you selected a silver-level QHP, conditionally eligible for cost-sharing reductions (CSR). This eligibility was effective June 1, 2015, and conditional pending the receipt of documentation to prove your income no later than July 21, 2015. You appealed this determination insofar as you were seeking to apply your APTC of \$806.00 per month for coverage dates between January and May 2015.

Also on April 23, 2015, the Marketplace issued a letter confirming your enrollment in a QHP with a monthly premium responsibility of \$1,151.84.

On April 24, 2015, the Marketplace issued a letter confirming your enrollment in a qualified health plan with a monthly premium responsibility of \$345.83, after the maximum APTC was applied. The letter also stated that your coverage could start as early as January 1, 2015, provided you paid your first month's premium.

On July 1, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Your spouse, [REDACTED], also attended the hearing as your Authorized Representative. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

- 1) Your Marketplace account indicates that you receive notices from the Marketplace via regular mail.
- 2) You testified that you did not receive any notices from the Marketplace telling you that you needed to update the information in your Marketplace to ensure that your coverage would not be interrupted and that your financial assistance would continue.
- 3) No notices sent to you at the address listed on your Marketplace account have been returned as undeliverable.
- 4) You testified that you did not know you needed to renew your application until you received a bill from your health plan for approximately \$5,000.00. You further testified that you were told by a Marketplace representative

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that you would not have to renew your application since you had consent to five years of access to tax information relating to your income.

- 5) You testified that you updated the information in your Marketplace Account on April 22, 2015.
- 6) The record does not reflect that you paid the approximate \$5,000.00 in premiums due for your family's coverage between January and May of 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 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 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)).

Appeal Timeliness

The Marketplace “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 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)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (N.Y. Soc. Serv. Law § 22(4)(a)), and this timeframe has been adopted by the Marketplace.

Legal Analysis

The issue under review is whether the Marketplace properly determined that you, your spouse, and your daughter were conditionally eligible for an advance premium tax credits of up to \$806.00 per month and cost-sharing reductions effective no earlier than June 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 6, 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 could not make a decision about whether or you, your spouse, or your daughter qualified for financial help paying for your health coverage. You were asked to update the information in your account by December 15, 2014 or the financial help you were receiving might end.

You testified that you did not receive any notices informing you that your application needed to be updated. However, the record indicates that the notices were issued to the address you have listed on your Marketplace account, and there is no indication that any of the notices were returned to the Marketplace as undeliverable.

When you did not update your account, the Marketplace was required to issue the December 22, 2014 notice, which found you were eligible to enroll in a plan

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at full cost. Your current appeal is essentially an untimely appeal of that earlier decision, because it was that decision that found that you were no longer entitled to APTC.

To the extent your appeal is requesting a modification of the December 22, 2014 notice of eligibility determination it is untimely and is therefore DENIED.

The record shows that your application was updated on April 22, 2015. This resulted in the April 23, 2015 eligibility determination notice that stated you, your spouse, and your daughter were conditionally eligible to receive up to \$806.00 in APTC, and to receive CSR. This eligibility was effective June 1, 2015.

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

Therefore, the Marketplace properly determined that any change to your eligibility for APTC would begin no earlier than June 1, 2015.

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; however, you did NOT receive APTC for the first half of the year.

Therefore, your case is returned to the Marketplace to make a new determination of your eligibility for APTC, based on annual household income of \$45,222.00 in a household of three people, and taking into consideration how many months of the year your family was or will be enrolled in a qualified health plan and the advance premium tax credits already provided to you.

Accordingly, the April 23, 2015 eligibility determination is MODIFIED only to note that the rate of \$806.00 in APTC is tentative only and subject to increase, pending a recalculation by the Marketplace. It is AFFIRMED insofar as it properly began your eligibility for APTC and CSR on June 1, 2015.

Decision

The April 23, 2015 eligibility determination is MODIFIED only to note that the rate of \$806.00 in APTC is tentative only and subject to increase, pending a recalculation by the Marketplace. It is AFFIRMED insofar as it properly began your eligibility for APTC and CSR on June 1, 2015.

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Effective Date of this Decision: October 19, 2015

How this Decision Affects Your Eligibility

You, your spouse, and your daughter continue to be conditionally eligible to receive APTC at a tentative rate of up to \$806.00 per month, as well as CSR, effective June 1, 2015.

Your family's eligibility remains conditional pending the receipt of documentation to prove your level of income.

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:

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- By fax: 1-855-900-5557

Summary

April 23, 2015 eligibility determination is MODIFIED only to note that the rate of \$806.00 in APTC is tentative only and subject to increase, pending a recalculation by the Marketplace. It is AFFIRMED insofar as it properly began your eligibility for APTC and CSR on June 1, 2015.

You, your spouse, and your daughter continue to be conditionally eligible to receive APTC at a tentative rate of up to \$806.00 per month, as well as CSR, effective June 1, 2015.

Your family's eligibility remains conditional pending the receipt of documentation to prove your level of income.

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]