



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

Notice of Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002588

[REDACTED]

Dear [REDACTED],

On June 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 6, 2015 eligibility redetermination.

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 letter.

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

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002588

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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 for up to \$41.00 per month in advance premium tax credit and ineligible for cost-sharing reductions as of March 6, 2015?

Procedural History

According to your Marketplace account, you had health insurance coverage through NY State of Health in 2014 and received advance premium tax credits (APTC) of \$307.00 per month and cost sharing reductions (CSR).

On March 5, 2015, you updated your Marketplace application.

On March 6, 2015, the Marketplace issued a notice of eligibility redetermination based on the updated information you provided. The notice stated that, based on a projected annual household income of \$41,600.01, you are eligible to receive up to \$41.00 per month of APTC effective April 1, 2015 and not eligible for CSR or Medicaid because your reported income is over the maximum allowable income limits for each of these programs.

That same day, the Marketplace issued a letter confirming your enrollment in Empire HMO 2250 Silver NS INN Pediatric Dental Dep 25 with a monthly premium responsibility of \$417.86 after your APTC of \$41.00 was deducted. That letter informed

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you that your health insurance coverage could begin as early as January 1, 2015, provided you paid your monthly premium on time.

On April 24, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the eligibility redetermination insofar as you could not afford to pay the monthly premium of \$417.86 based on your take-home pay.

On June 3, 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 expect to file your 2015 tax return as Single and you do not expect to claim anyone as a dependent for the 2015 tax year.
- 2) According to your Marketplace application and your testimony at the hearing, you attested to earnings in 2015 of \$41,600.01, before taxes are deducted.
- 3) You testified that you take home \$1,118.90 every other week, which is \$2,237.80 every four weeks, so your annual net pay is \$29,091.40.
- 4) You further testified that your net monthly income of \$2,237.80 is less than your essential monthly living expenses of \$2,637.29 when your monthly premium payment is included.
- 5) You testified that you paid your monthly health insurance premiums through May 2015, but cannot afford to continue to pay the monthly premium of \$417.86, even though you want to have health insurance.
- 6) You testified that you do not want to be penalized for not having health insurance in 2015 and may apply for an exemption.
- 7) You currently reside in Westchester County, New York.

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

Applicable Law and Regulations

Advance Premium Tax Credit

The advance premium tax credit (APTC) is 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 2013 federal 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 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).

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).

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)).

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).

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)).

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Affordability Exemption

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

At issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$41.00 per month and that you were not eligible for cost-sharing reductions.

In the application that was updated on March 5, 2015, you attested to an expected yearly gross income of \$41,600.01. The eligibility determination relied upon that information.

According to the record, you are the only person in your tax household.

You reside in Westchester County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$372.40 per month.

An annual income of \$41,600.01 is 356.47% of the 2014 federal poverty level (FPL) for a one-person household. At 356.47% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$331.41 per month.

The maximum amount of advance premium tax credit that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$372.40 per month) minus your expected contribution (\$331.41 per month), which equals \$40.99 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your advance premium tax credit to be \$41.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$41,600.01 is 356.47% of

the 2014 FPL, the Marketplace correctly found you to be ineligible for cost-sharing reductions.

However, you testified that, because of your monthly expenses and amount of take-home pay, you cannot afford to pay a monthly premium of \$417.86. This may qualify as a hardship exemption from having to pay a penalty to the IRS for not having health insurance in 2015. If you wish to be considered for a hardship exemption, you can contact HHS at its Federal website (www.healthcare.gov) for direction.

Decision

The March 6, 2015 eligibility redetermination is AFFIRMED.

Effective Date of this Decision: August 25, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$41.00 per month beginning January 1, 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 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.

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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):

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Summary

The March 6, 2015 eligibility redetermination is AFFIRMED.

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$41.00 per month beginning January 1, 2015.

If you wish to be considered for a hardship exemption, you can contact HHS at its Federal website (www.healthcare.gov) for direction.

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:



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