



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002621

[REDACTED]

Dear [REDACTED],

On September 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 14, 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 Code of Federal Regulation 45 CFR § 155.545(b).

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Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002621

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Issues

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

Did the Marketplace properly determine that you were eligible to receive up to \$288.00 per month in advance premium tax credit, and, if you select a silver-level qualified health plan, eligible for cost sharing reductions, effective January 1, 2015?

Did the Marketplace properly redetermine that you were eligible to receive up to \$202.00 per month in advance premium tax credit, effective April 1, 2015?

Did the Marketplace properly redetermine that you were eligible for cost-sharing reductions at a different level, effective April 1, 2015?

Procedural History

On November 30, 2014, the Marketplace received your application for health insurance and reported an expected annual income of \$20,000.04 for 2015.

On December 1, 2014, the Marketplace issued a notice of eligibility determination that you were conditionally eligible to receive up to \$288.00 per month in advance premium tax credits (APTC) and, if you select a silver-level qualified health plan, eligible for cost sharing reductions, effective January 1, 2015. The notice informed you to submit documentation to confirm your income before March 2, 2015.

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According to your eligibility information available in your Marketplace account that date, your maximum out of pocket costs were \$2,000.00 for a single person for the conditional period of January 1, 2015 to March 31, 2015 (NYSOH Exhibit 1).

On December 17, 2014, the Marketplace issued a notice confirming your enrollment in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 and your monthly premium responsibility of \$256.76, after your APTC amount of \$288.00 was applied. The notice stated that health insurance could start after you paid your first month's premium and could start as early as January 1, 2015.

On March 12, 2015, you uploaded income information to your Marketplace account.

On March 14, 2015, the Marketplace issued a notice of eligibility redetermination that based on the income information it had recently received, your expected annual income was \$27,204.00 and you were eligible to receive up to \$202.00 per month in APTC and cost sharing reductions.

That same date, the Marketplace issued a notice confirming your enrollment in UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 with a monthly premium responsibility of \$342.76. The notice stated that health insurance could start after you paid your first month's premium and could start as early as January 1, 2015.

According to your eligibility information available in your Marketplace account that date, your maximum out of pocket costs were \$4,000.00 for a single person for the period of April 1, 2015 to May 31, 2015 (NYSOH Exhibit 2).

On April 27, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the March 14, 2015 eligibility redetermination insofar as your APTC and maximum out-of-pocket costs had changed even though your reported 2015 income remained the same at \$20,000.04.

You also requested that your current health plan and entitlement to APTC and cost sharing reductions continue during that appeal process, which according to the notes in your Marketplace account was granted on May 28, 2015 (NYSOH Exhibit 3).

On September 23, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit income documents and proof of changes made to your health plan and monthly premium responsibility.

On September 30, 2015, you uploaded four documents to your Marketplace account, which included: (1) A written statement, dated September 30, 2015; (2) Two copies of an income statement from January 1, 2015 to September 18, 2015; and (3) A copy of your UnitedHealthcare online plan details, dated June 24, 2015. These uploaded documents were made part of the record as "Appellant's Exhibits B, C, and D" respectively and the record was closed that same day.

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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 and will not be claiming any dependents on that tax return.
- 2) The application that was submitted on November 30, 2014 listed annual household income of \$20,000.04 for 2015, consisting of self-employment income less expenses. You testified that this amount was correct.
- 3) On March 12, 2015, you uploaded an income statement for the months of January, 2015, February, 2015 and March 2015, which showed you made \$6,800.00 during the first quarter of 2015. The statement also stated that, “[a]ll income is from self-employment and is sporadic. The \$4,800.00 in January, 2015 is partially for work performed in 2014. The best estimate for income for [name] in calendar year 2015 is still approximately \$20,000.04” (Appellant’s Exhibit A).
- 4) You testified the Marketplace disregarded the information you provided in your Exhibit A that your income from self-employment is “sporadic” and that the best estimate for your expected annual earnings in 2015 is “\$20,000.04.”
- 5) You testified and provided a written statement that the Marketplace used only the \$6,800.00 amount from the first quarter of earnings in 2015 to recalculate your expected annual income of \$27,204.00 resulting in: (1) your advance premium tax credit (APTC) amount to be changed to the lesser amount of \$202.00, which was then applied retroactively by UnitedHealthcare; (2) the health plan you were enrolled in to be terminated; and (3) your enrollment in a similar plan with higher co-payments and deductibles (Appellant’s Exhibit B).
- 6) You testified and provided an income statement from January 1, 2015 to September 18, 2015 that showed your income to date was \$14,255.10, which was on par with the 2015 projected income from self-employment of \$20,000.04 you had originally reported to the Marketplace (Appellant’s Exhibit C).
- 7) You testified and provided an online plan details statement from UnitedHealthcare, dated June 24, 2015, which indicates that your original health plan was “dropped” March 31, 2015, and that you had been enrolled in a different silver plan with the same name, effective April 1, 2015, with APTC of \$202.00 per month and a monthly premium responsibility of \$342.76 (Appellant’s Exhibit D).
- 8) You testified and provided a written statement that you were also charged higher co-payments and deductibles for doctor visits and prescription medicines (Appellant’s Exhibit B).

- 9) According to your Marketplace account, your eligibility for APTC changed as of April 1, 2015 from \$288.00 per month to \$202.00 per month, and your maximum out-of-pocket costs increased from \$2,000.00 to \$4,000.00.
- 10) According to a Marketplace note, dated May 28, 2015, you were granted aid to continue “by terminating current plan with current APTC and modifying the end date to 3/31/15. Next step is to do override using last APTC amount, enroll in plan and make [the] effective date 4/1/15, then email plan [management] not to reset deductibles” (NYSOH Exhibit 3).
- 11) It appears from the March 13, 2015 eligibility tab in your Marketplace account, and March 14, 2015 eligibility redetermination, and the online plan details report from UnitedHealthcare that the override instructions were not carried out
- 12) Your application states that you live in New York 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 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

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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 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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)).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were originally eligible for an advance premium tax credit (APTC) of up to \$288.00 per month.

The application that was submitted on November 30, 2014 listed an annual household income of \$20,000.04 and the eligibility determination relied upon that information.

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

You reside in New York County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$20,000.04 is 171.38% of the 2014 FPL for a one-person household. At 171.38% of the FPL, the expected contribution to the cost of the health insurance premium is 5.01% of income, or \$83.53 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$371.75 per month) minus your expected contribution (\$83.53 per month), which equals \$288.22 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to originally be eligible for up to \$288.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions. 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 \$20,000.04 is 171.38% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions and determined that your maximum out-of-pocket costs would be \$2,000.00.

Since the December 1, 2014 eligibility determination properly stated that, based on the information you provided, you were conditionally eligible for up to \$288.00 per month in APTC, and eligible for cost-sharing reductions with a maximum out-of-pocket cost of \$2,000.00, it is correct and is AFFIRMED.

The Marketplace also confirmed your plan selection of UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 and your monthly premium responsibility of \$256.76, after your APTC amount of \$288.00 was applied, which according to your online plan detail records was paid on time for coverage to begin January 1, 2015. Therefore, the December 17, 2014 enrollment notice is also AFFIRMED.

However, you credibly testified and your Marketplace account reflects that the Marketplace recalculated your eligibility for financial assistance based on your first quarter income on March 13, 2015, which did not accurately reflect your annual income given its sporadic nature that you had reported. The record reflects that this error

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resulted in your eligibility begin redetermined and the amount of APTC to which you were entitled being reduced to \$202.00 per month, your health plan being dropped and your enrollment in a similar plan with different rates and deductibles being made effective April 1, 2015, and your deductibles being increased to \$4,000.00 annually and reset to start over. It also appears from the record that the Marketplace granted your request for aid to continue and that your health plan was to be notified to not reset the deductible amounts, which appears not to have happened based on your eligibility as of March 13, 2015 and your credible testimony and documentary proof to the contrary.

Therefore, the March 14, 2015 notice of eligibility redetermination is RESCINDED.

Your case is RETURNED to the Marketplace to facilitate reinstatement of your coverage in your original health plan with UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 with the same coverage and rates that were in effective as of January 1, 2015, with an APTC amount of \$288.00 per month and maximum out-of-pocket expenses of \$2,000.00. Any overpayments are to first be credited toward your future monthly premium responsibility and then refunded to you if a credit cannot be applied for the remainder of 2015.

The Marketplace is further directed to ensure that this information is properly conveyed to the health plan so that your deductibles remain as they were in the original health plan that was effect as of January 1, 2015 and are not reset as of April 1, 2015.

The Marketplace is to also ensure that the health plan properly recalculate the deductibles that should have applied to doctor visits and for prescription medications and afford the appellant a credit or refund, effective January 1, 2015.

Decision

The December 1, 2014 notice of eligibility determination is AFFIRMED.

The December 17, 2014 enrollment notice is AFFIRMED.

The March 14, 2015 notice of eligibility redetermination is RESCINDED.

Your case is RETURNED to the Marketplace to facilitate reinstatement of your coverage in the original health plan with UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 that was in effective as of January 1, 2015, with an APTC amount of \$288.00 per month and maximum out-of-pocket expenses of \$2,000.00.

The Marketplace is further directed to ensure that this information is properly conveyed to the health plan so that the deductibles remain as they were in the original health plan that was effect as of January 1, 2015 and are not reset as of April 1, 2015.

The Marketplace is to also ensure that the health plan properly recalculate the deductibles that should have applied to doctor visits and for prescription medications and afford the appellant a credit or refund, effective January 1, 2015.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$288.00 per month in advance premium tax credits and cost sharing reductions in your original health plan with UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 that was in effective as of January 1, 2015.

Your deductible amount is \$2,000.00 maximum for out-of-pocket costs and your copayments for doctor visits and prescription medication are to be reset at the original rates in place in January 2015.

Your APTC monthly premium amounts and deductibles paid are to be recalculated based on the January 2015 rates and any credits are to be properly applied or refunds are to be made.

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.

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Summary

The December 1, 2014 notice of eligibility determination is **AFFIRMED**.

The December 17, 2014 enrollment notice is **AFFIRMED**.

The March 14, 2015 notice of eligibility redetermination is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to facilitate reinstatement of your coverage in the original health plan with UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 that was in effective as of January 1, 2015, with an APTC amount of \$288.00 per month and maximum out-of-pocket expenses of \$2,000.00.

The Marketplace is further directed to ensure that this information is properly conveyed to the health plan so that the deductibles remain as they were in the original health plan that was effect as of January 1, 2015 and are not reset as of April 1, 2015.

The Marketplace is to also ensure that the health plan properly recalculate the deductibles that should have applied to doctor visits and for prescription medications and afford the appellant a credit or refund, effective January 1, 2015.

You remain eligible for up to \$288.00 per month in advance premium tax credits and cost sharing reductions in your original health plan with UnitedHealthcare Compass Silver ST INN Pediatric Dental Dep25 that was in effective as of January 1, 2015.

Your deductible amount is \$2,000.00 maximum for out-of-pocket costs and your copayments for doctor visits and prescription medication are to be reset at the original rates in place in January 2015.

Your APTC monthly premium amounts and deductibles paid are to be recalculated based on the January 2015 rates and any credits are to be properly applied or refunds are to be made.

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A Copy of this Decision Has Been Provided To:

