



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

Notice of Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002676

[REDACTED]

Dear [REDACTED],

On June 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 18, 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

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]
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Issue

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

Did the Marketplace properly find that you were eligible to receive \$0.00 in advance premium tax credits and not eligible for cost-sharing reductions, effective June 1, 2015?

Procedural History

On March 17, 2015, the Marketplace issued a notice that stated you and your daughter were eligible to enroll in the Marketplace and to receive together up to \$196.00 in advance premium tax credits (APTC), effective May 1, 2015. You were not eligible to receive cost-sharing reductions (CSR) or Medicaid because your income was over the limits for those programs. These findings were based, in part, on your declared expected annual income of \$ 44,587.50, and your statement that your marital status was “divorced” and that you would be filing as single, with one dependent.

On April 18, 2015, the Marketplace issued a second notice that stated you were eligible for \$0.00 in APTC and ineligible to receive CSR, effective June 1, 2015, and that your daughter was no longer eligible to receive financial assistance through the Marketplace because she was enrolled in coverage through your local department of social services.

On April 30, 2015, you spoke with the Marketplace’s Account Review Unit and appealed the April 18, 2015 determination and requested an increase in APTC, as well as CSR.

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On June 11, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was left open until June 26, 2015 to provide you an opportunity to submit copies of your tax return, including the attached Schedule E, as you were directed to do by the Hearing Officer. You submitted documentation on June 11, 2015 by fax, and the record was closed on June 26, 2015.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) The application that was submitted on March 16, 2015 listed annual household income of \$ 44,587.50, and indicated that you would be filing your tax return as single, with one dependent.
- 2) You testified that no dependents lived with you and that you would not be declaring any dependents on your tax return.
- 3) You testified that you earned \$9,587.50 from your job, and that you received a gross amount of \$35,000.00 from rental properties.
- 4) Your March 16, 2015 application stated that you live in Oneida County.
- 5) On June 11, 2015, you submitted a copy of a 1040A tax form, as well as a copy of a 1040 Schedule E, for the 2014 tax year (Appellant's Exhibit #1). On the 1040A form you claimed that you were married, but filing separately. You did not list your daughter as a dependent.
- 6) The copy of the Schedule E, which is an attachment to form 1040, you submitted indicated that you received a net amount of \$5,138.00 from your rental properties (line 26), out of gross rental receipts of (according to line 3) \$14,850.00, \$10,828.00, and \$11,800.00. According to line 23a, these three gross rental receipts totaled \$45,278.00. The form further listed mortgage interest you paid of \$1,574.00 (according to line 12) or \$4,135.00 (according to line 23a). It listed depreciations of \$764.00, \$764.00, and \$618.00 on line 18, but a total from line 18 of \$3,819.00. It listed losses of \$1,026.00 on line 25, but \$0.00 in losses on line 22.
- 7) The 1040A form you submitted does not include rental income.

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 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 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 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), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR § 155.305(f), 45 CFR § 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

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- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
 - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
 - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703(a); 26 USC § 7703(b)).

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)).

Legal Analysis

You provided a Schedule E form, which is an attachment to form 1040, but instead of providing the 1040 form you filed with this Schedule E, you provided a 1040A form that does not include your rental income. Moreover, the numbers you provided in the Schedule E form are internally inconsistent; the totals in line 23 do not equal the sums of the items listed elsewhere on the form, and you claimed losses that were not listed higher up the form.

On March 16, 2015, when you filed your application, you indicated that you were divorced, and claiming your daughter as a dependent. You testified that no dependents lived with you, and that you would not be claiming any dependents on your tax return. On the 1040A form, which you presumably filed on or before April 15, 2015, you indicated that you were married, but filing separately, and that you had no dependents.

Therefore, the documents you submitted on June 11, 2015 from the 2014 tax year are not reliable, and they will not be considered at this time. The April 18,

2015 determination will be reviewed based on the income information you provided in your application, for a one-person household, in Oneida County.

The issue is whether the Marketplace properly found that you were eligible to receive \$0.00 in advance premium tax credits (APTC) and that you were not eligible for cost-sharing reductions, effective June 1, 2015.

The application that was submitted on March 16, 2015 listed an annual household income of \$44,587.50, and indicated that you were filing your return as single and that you would be claiming your daughter as a dependent. The eligibility determination relied upon that information; this review, however, will not consider your daughter as a dependent, as you testified that she does not live with you and that you will not be claiming her as a dependent.

You are in a one-person household. You expect to file your 2015 income taxes as single and will claim no dependents on that tax return.

You reside in Oneida County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$313.44 per month.

An annual income of \$44,587.50 is 382.07% of the 2014 Federal Poverty Level (FPL) for a one-person household. At 382.07% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$355.21 per month.

Since your expected monthly contribution exceeds the cost of the second lowest cost silver plan for an individual in your county, your APTC level was properly determined to be \$0.00.

Additionally, please note that if you are still legally married, and you have no dependents, you would not be eligible to be considered a head of household and you would not be eligible for these tax credits at all, regardless of your income.

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 \$44,587.50 is 382.07% of the applicable FPL, the Marketplace correctly found you to be ineligible for CSR.

Since the April 18, 2015 eligibility determination properly stated you were eligible for \$0.00 in APTC and ineligible to receive CSR, effective June 1, 2015, it is correct and is AFFIRMED.

Decision

The April 18, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: August 21, 2015

How this Decision Affects Your Eligibility

You remain eligible for \$0.00 in APTC and ineligible for CSR; this decision has no effect on applications filed after April 18, 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. 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:

NY State of Health Appeals

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- By fax: 1-855-900-5557

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Summary

The April 18, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for \$0.00 in APTC and ineligible for CSR; this decision has no effect on applications filed after April 18, 2015.

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:

