



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

Notice of Decision

Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002734

[REDACTED]

Dear [REDACTED],

On November 5, 2015, [REDACTED], acting as your Authorized Representative, appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 and March 12, 2015 eligibility determinations.

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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Issues

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

Did the Marketplace properly determine on March 12, 2015 that you and your spouse were collectively eligible to receive an advance premium tax credit of up to \$571.00 per month and cost sharing reductions, effective April 1, 2015?

Procedural History

On November 6, 2014, the Marketplace issued a notice stating that it was time 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 or your spouse would qualify for financial help paying for your health coverage in 2015, 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 15, 2014.

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

Also on December 22, 2014, the Marketplace issued a letter confirming enrollment in a silver-level qualified health plan (QHP) by you and your spouse,

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with a monthly premium responsibility of \$774.92. The letter also informed that coverage for you and your spouse could start as early as January 1, 2015 provided you paid your first month's premium on time.

On March 12, 2015, the Marketplace issued a notice of eligibility redetermination that you and your spouse were newly eligible to receive an advance premium tax credit (APTC) of up to \$571.00 per month and, if you selected a silver-level qualified health plan, for cost-sharing reductions (CSR). This eligibility determination was effective April 1, 2015.

Also on March 12, 2015, the Marketplace issued a letter confirming enrollment in a silver-level QHP by you and your spouse with a monthly premium responsibility of \$203.92, after applying the maximum APTC of \$571.00.

On May 4, 2015, you spoke to the Marketplace's Account Review Unit and appealed the December 22, 2014 and March 12, 2015 eligibility determinations insofar as you began to receive your APTC on April 1, 2015, and not January 1, 2015.

On November 5, 2015, your Authorized Representative, [REDACTED], 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

- 1) Your Marketplace account reflects that you wanted your spouse, [REDACTED], to act as your Authorized Representative.
- 2) Your Marketplace account indicates that you elected to receive notifications via electronic mail.
- 3) Your spouse testified that the e-mail address you provided in your application, "[REDACTED]", was accurate.
- 4) Your spouse testified that he had been receiving e-mail notifications from the Marketplace. He further testified that while he could not exactly recall, he may have received a notification from the Marketplace by e-mail telling him that he needed to update the information in the Marketplace to ensure that coverage would not be interrupted and that financial assistance would continue.
- 5) Your spouse testified that a representative from his insurance carrier contacted him around December 2014 and asked whether he wanted to renew the coverage with the Marketplace, to which he stated that he did.

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Your spouse further testified that based on this exchange with the insurance carrier representative, he did not take any steps to renew the application through the Marketplace.

- 6) Your spouse testified that the insurance carrier representative never told him that he had to renew the application through the Marketplace.
- 7) Your application reflects that you updated the information in your Marketplace account on March 4, 2015, which was later run in an eligibility determination on March 11, 2015.
- 8) Your spouse testified that he paid the full premium cost of \$774.92 per month for three months of coverage from January 1, 2015 to March 31, 2015.
- 9) Your spouse testified that he were seeking to retroactively apply the \$571.00 in tax credits you and your spouse was found eligible for on April 1, 2015, effective January 1, 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 projected eligibility determination for the following 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)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The issue under review is whether the Marketplace properly determined the eligibility of you and your spouse for an advance premium tax credit (APTC) of up to \$571.00 per month and cost-sharing reductions (CSR) became effective April 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 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 not you 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.

Your information was not updated prior to December 15, 2014, and on December 22, 2014 the Marketplace issued a notice that stated you and your husband were newly eligible to purchase a qualified health plan at full cost effective January 1,

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2015. You were not eligible to receive APTC or cost-sharing reductions because renewal period and income data was not available at the time of the redetermination.

You testified, and the record reflects, that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that while you could not precisely recall receiving a notification from the Marketplace by e-mail telling you that you needed to update the information by December 15, 2014, you conceded that you likely received it since you had received so many other e-mails from the Marketplace during that time.

Therefore, it is concluded that the Marketplace gave you the proper notice that you needed to update your account.

The record shows that your application was updated on March 4, 2015. This resulted in the March 12, 2015 eligibility determination notice that stated you and your spouse were eligible to receive up to \$571.00 in APTC, and to receive CSR. This eligibility was effective April 1, 2015.

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

Therefore, the Marketplace's March 12, 2015 eligibility determination is AFFIRMED insofar as it properly found that your eligibility for APTC resumed on April 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 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 APTC for the entire 12 months of the year.

Therefore, the matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the nine months of 2015.

Decision

The March 12, 2015 eligibility determination is MODIFIED solely to reflect that while your eligibility for APTC and CSR properly resumed on April 1, 2015, the amount of APTC is only tentative, and may be increased.

The matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the nine months of 2015.

Effective Date of this Decision: November 18, 2015

How this Decision Affects Your Eligibility

You are eligible to receive to \$571.00 per month of APTC and CSR effective April 1, 2015.

This is not a final determination as to the amount of APTC you were entitled to as of April 1, 2015; this issue will be addressed in a future notice.

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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 12, 2015 eligibility determination is MODIFIED solely to reflect that while your eligibility for APTC and CSR properly resumed on April 1, 2015, the amount of APTC is only tentative, and may be increased.

The matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the nine months of 2015.

You are eligible to receive to \$571.00 per month of APTC and CSR effective April 1, 2015.

This is not a final determination as to the amount of APTC you were entitled to as of April 1, 2015; this issue will be addressed in a future notice.

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]