



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: AP000000002883

[REDACTED]

Dear [REDACTED],

On June 15, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 27, 2014 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).

This page intentionally left blank.



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

Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002883

[REDACTED]

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 \$299.00 per month in advance premium tax credit and cost-sharing reductions, effective January 1, 2015?

Procedural History

On November 27, 2014, the Marketplace issued a notice of eligibility determination stating that you are eligible to receive an advance premium tax credit of up to \$299.00 per month and, if you select a silver-level plan, cost-sharing reductions; effective January 1, 2015. This determination was based on an expected household income of \$19,760.00.

On December 29, 2014, the November 27, 2014 notice of eligibility determination was returned to the Marketplace and marked, "Return to sender/ No such number/ Unable to forward."

On May 12, 2015, you appealed the November 27, 2014 eligibility determination insofar as it did not approve an advance premium tax credit of more than \$299.00 per month.

On June 15, 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.

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).

Findings of Fact

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

- 1) You testified, and the record reflects that you expect to file your 2015 federal income tax return as Single and claim no dependents.
- 2) According to the November 26, 2014 application, you attested to an expected household income of \$19,760.00 for the 2015 tax year.
- 3) You testified that you currently earn \$10.00 per hour, and work approximately 40 hours per week from your regular job. You further testified that this income does not tend to fluctuate, and you earn \$400.00 per week before taxes are deducted. You testified that you also have an "on-call" job in which you earn \$13.00 per hour, for 5 to 7 hour shifts, and work approximately 1 to 2 shifts per week.
- 4) You testified that you do not expect to take any deductions on your 2015 federal income tax return.
- 5) You testified, and the record reflects, that you reside in Nassau County, New York.
- 6) You testified that you cannot afford health insurance premiums based on your income after taxes are deducted.

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 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

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).

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 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)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$299.00 per month and cost-sharing reductions.

According to the November 26, 2014 application for health insurance, you expect to file your 2015 federal income tax return as Single, and claim no dependents; therefore, you are a one-person tax household.

According to the same application, you attested to an expected household income of \$19,760.00 before taxes are deducted. The eligibility determination relied upon that information.

You reside in Nassau County, where the second lowest cost silver plan available in 2015 for an individual through the Marketplace costs \$379.93 per month.

An annual income of \$19,760.00 is 169.32% of the 2014 federal poverty level (FPL) for a one-person household. At 169.32% of the FPL, the expected contribution to the cost of the health insurance premium is 4.92% of income, or \$80.96 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 (\$379.93 per month) minus your expected contribution (\$80.96 per month), which equals \$298.97 per month. Rounded to the nearest dollar, the Marketplace correctly determined your APTC to be \$299.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 169.32% of the FPL for purposes of determining APTC and cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

Since the November 27, 2014 notice of eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$299.00 per month and eligible for cost-sharing reductions, it is correct and is **AFFIRMED**.

However, you testified that you earn \$10.00 per hour and work approximately \$40 per week from your regular job. You further testified that you earn \$13.00 per hour, for approximately 5 to 7 hours, one to two times per week from your “on-call” job. Therefore, you expect to earn approximately \$400.00 per week from your regular job and approximately \$117.00 per week from your “on-call” job, or a total of \$26,884.00 per year before taxes are deducted, which is a different income than the \$19,760.00 used by the November 27, 2014 eligibility determination.

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).

Therefore, your case is RETURNED to the Marketplace to verify the expected 2015 income you are now claiming and redetermine your eligibility for APTC based on a one-person household in Nassau County with an expected income of \$26,884.00 for the 2015 tax year.

Decision

The November 27, 2014 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to verify the expected 2015 income you are now claiming and redetermine your eligibility for APTC based on a one-person household in Nassau County with an expected income of \$26,884.00 for the 2015 tax year.

Effective Date of this Decision: August 25, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain eligible to receive an advance premium tax credit of up to \$299.00 per month to be applied toward your monthly health insurance premiums.

However, your case is returned to the Marketplace to verify your income and redetermine your eligibility for APTC using a one-person household in Nassau County and an expected income of \$26,884.00 for the 2015 tax year.

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 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).

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 November 27, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility. You remain eligible to receive an advance premium tax credit of up to \$299.00 per month to be applied toward your monthly health insurance premiums.

However, your case is returned to the Marketplace to verify your income and redetermine your eligibility for APTC using a one-person household in Nassau and an expected income of \$26,884.00 for the 2015 tax year.

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:

