



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

Notice of Decision

Decision Date: October 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003877

[REDACTED]

Dear [REDACTED]

On September 24, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 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 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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Albany, NY 12211

Decision

Decision Date: October 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003877

[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 not eligible for an advance premium tax credit during the month of May 2015?

Procedural History

On November 27, 2014, the Marketplace issued a notice of eligibility determination stating that you are eligible to purchase a qualified health plan (QHP) at full cost through the Marketplace, effective January 1, 2015.

On December 10, 2014, the November 27, 2014 eligibility determination notice was returned to the Marketplace as "Temporarily Away" by the U.S. Post Office.

On February 3, 2015, the Marketplace issued a notice of eligibility determination stating that you were newly eligible to receive up to \$114.00 in advance premium tax credits (APTC), effective March 1, 2015.

On February 12, 2015, the February 3, 2015 eligibility determination notice was returned to the Marketplace as "Temporarily Away" by the U.S. Post Office.

On February 14, 2015, the Marketplace issued an enrollment confirmation notice confirming your enrollment in your QHP as of February 2, 2015.

On February 27, 2015, the February 14, 2015 enrollment confirmation notice was returned to the Marketplace as "Temporarily Away" by the U.S. Post Office.

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On April 14, 2015, the Marketplace issued a notice of eligibility determination stating that you are eligible to purchase a QHP at full cost through the Marketplace, effective May 1, 2015. The notice further stated that you were not eligible for APTC because the Marketplace sent you information, including notices about your eligibility and coverage, by U.S. mail to the mailing address provided in your account. However, information was returned to the Marketplace as undeliverable.

On April 22, 2015, the April 14, 2015 enrollment confirmation notice was returned to the Marketplace as "Temporarily Away" by the U.S. Post Office.

On May 9, 2015, the Marketplace issued a notice of eligibility determination stating that you were newly eligible to receive up to \$125.00 in APTC, effective June 1, 2015.

On July 13, 2015, you spoke with the Marketplace's Account Review Unit and appealed the April 14, 2015 eligibility determination insofar as you were not eligible to receive an APTC effective May 1, 2015.

On September 24, 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 support the following findings of fact:

- 1) The record indicates that all of the notices that were sent to you between November 27, 2014 and April 14, 2015 were returned to the Marketplace and marked as "Temporarily Away" by the U.S. Post Office.
- 2) You testified that you permanently reside in the State of New York.
- 3) You testified that in the beginning of 2015 you were temporarily in the State of Florida to care for your elderly mother.
- 4) You testified that prior to leaving for Florida, you contacted the Marketplace and requested that your mail be forwarded to your mother's address. You were told by a Marketplace representative that the Marketplace could not forward your mail to an out of state address.
- 5) On April 14, 2015 the Marketplace issued a notice of eligibility determination that stated, in part, that you were not eligible for advance premium tax credits because notices sent to you by U.S. mail to the

mailing address provided in your account were returned to the Marketplace as undeliverable.

- 6) The record indicates that the only month you were without an advance premium tax credit is May 2015.

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

Applicable Law and Regulations

State Residency Requirement

To be eligible for enrollment in a qualified health plan (QHP) and eligible to receive an advance premium tax credit (APTC) through the New York State of Health Marketplace, an applicant must be a resident of New York State (45 CFR § 155.305(a)(3)), (f)(1)(ii)(A).

The Marketplace must verify or obtain information in order to determine that an applicant is eligible for enrollment in a QHP, including verification of the applicant's attestation of residency (45 CFR § 155.315(a), (d)).

If an applicant attests to residency in New York State, and the New York State of Health Marketplace is unable to resolve inconsistencies with the attestation provided by the applicant, the Marketplace must provide the applicant notice of the inconsistency and a period of 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. (45 CFR § 155.315(f)(2)).

During the 90 day period, the Marketplace must proceed with all other elements of the eligibility determination using the applicant's attestation and provide enrollment in a QHP and ensure that APTC and cost-sharing reductions are provided on behalf of an applicant who is otherwise eligible (45 CFR § 155.315 (f)(4)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were not eligible for an advance premium tax credit (APTC) during the month of May 2015.

The Marketplace is required to determine whether individuals are eligible to enroll in coverage and obtain APTC through the Marketplace, and must confirm, among other things, that their residency status is satisfactory.

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You testified that you permanently reside in the State of New York but that you were temporarily in the State of Florida during the beginning of 2015 to care for your elderly mother. You testified that prior to leaving for Florida, you contacted the Marketplace and requested that your mail be forwarded to your mother's Florida address. You were told by a Marketplace representative that the Marketplace cannot forward your mail to an out of state address.

The record indicates that all of the notices that were sent to you between November 27, 2014 and April 14, 2015 were returned to the Marketplace and marked as "Temporarily Away" by the U.S. Post Office.

On April 14, 2015 the Marketplace issued a notice of eligibility determination that stated in part that you were not eligible for APTC because the Marketplace sent you information, including notices about your eligibility and coverage, by U.S. mail to the mailing address provided in your account, but the information was returned to the Marketplace as undeliverable.

If the Marketplace cannot verify an individual's residency, it must send the individual a notice alerting them of the inconsistency and a period of 90 days from the date that notice is received to resolve the inconsistency. During the 90 days the Marketplace must maintain an applicant's enrollment in their qualified health plan and provide APTC and cost-sharing reductions if the applicant is otherwise eligible.

Even though your testimony indicates that you were aware that the Marketplace would not forward your mail to your mother's address in Florida, the Marketplace was still obligated to send you a formal notice that there was an inconsistency with your address. Furthermore, the Marketplace is required to provide you with 90 days to correct the inconsistency and is required to continue your eligibility during those 90 days. The Marketplace failed to comply with those requirements.

Therefore, the April 14, 2014 eligibility determination stating that you were not eligible for APTC because the Marketplace sent you information but that information was returned to the Marketplace as undeliverable, is **RESCINDED**.

Decision

The April 14, 2014 eligibility determination is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to ensure your advance premium tax credit is properly applied.

Effective Date of this Decision: October 22, 2015

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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How this Decision Affects Your Eligibility

You did not receive proper notice from the Marketplace that there was an inconsistency in your account regarding your address.

You were eligible for advance premium tax credit during the month of May 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
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Summary

The April 14, 2014 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to ensure your advance premium tax credit is properly applied.

You did not receive proper notice from the Marketplace that there was an inconsistency in your account regarding your address.

You were eligible for advance premium tax credit during the month of May 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:

