



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

Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003893

[REDACTED]

Dear [REDACTED],

On September 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 7, 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 (CFR) 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: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003893

[REDACTED]

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 an advance premium tax credit of up to \$164.00 per month, effective August 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions, effective August 1, 2015?

Procedural History

On June 18, 2015, the Marketplace received your most recent application for health insurance.

On July 7, 2015, the Marketplace issued an eligibility redetermination notice stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$164.00 per month and, if you select a silver-level plan, eligible for cost-sharing reductions (CSR), effective August 1, 2015. This notice also stated that you qualified to select a health plan outside of the open enrollment period.

On July 8, 2015, the Marketplace issued an enrollment notice confirming your enrollment in a Healthfirst silver-level qualified health plan with a premium responsibility of \$223.46, after applying the maximum APTC of \$164.00.

On July 15, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the July 7, 2015 eligibility determination insofar as you

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).

were found eligible for an APTC no greater than \$164.00 per month beginning August 1, 2015.

On September 24, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At your request, a Spanish-language interpreter ([REDACTED]) also attended the hearing. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you expect to file your 2015 taxes with a tax filing status of married filing jointly, and that you will not be claiming any dependents on that tax return.
- 2) You are seeking insurance for only yourself. Your spouse is not seeking insurance coverage through the Marketplace since he has applied for, but is not yet receiving, Medicare coverage, because he is now 65 years old.
- 3) The application that was submitted on June 18, 2015 listed annual household income of \$35,000.00, consisting of \$13,000.00 in earned income you expect to receive from your employer, [REDACTED], and \$22,000.00 in earned income your spouse receives from his employer, also [REDACTED]. You testified that the total expected income amount was correct, although it was you who expect to receive \$22,000.00 during 2015 and that your spouse expects to receive \$13,000.00.
- 4) Your application states that you will not be taking any deductions on your 2015 tax return.
- 5) You testified, and your application states, that you live in Bronx County, New York.
- 6) You testified that the Healthfirst silver-level plan you have enrolled in is unaffordable with a premium of over \$200.00 per month after applying the maximum APTC amount of \$164.00.
- 7) You testified that you were seeking an appeal to determine whether you are eligible for a greater amount of APTC.

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 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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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 first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$164.00 per month.

The application that was submitted on June 18, 2015 listed an annual household income of \$35,000.00. While the income amounts were transposed as to you and your spouse's individual expected earnings for 2015, the total amount of income was accurately reflected and is correct. The eligibility determination relied upon that information.

You are in a two-person household. You expect to file you 2015 income taxes as married filing jointly and will not be claiming any dependents on that tax return.

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

An annual income of \$35,000.00 is 222.50% of the 2014 FPL for a two-person household. At 222.50% of the FPL, the expected contribution to the cost of the health insurance premium is 7.13% of income, or \$208.02 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 (\$208.02 per month), which equals \$163.73 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$164.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$35,000.00 is 222.50% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

Since the July 7, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$164.00 per month and eligible for CSR, it is correct and is AFFIRMED.

Decision

The July 7, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$164.00 per month, and cost-sharing reductions provided you remain enrolled in a silver-level plan.

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 July 7, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$164.00 per month, and cost-sharing reductions provided you remain enrolled in a silver-level plan.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

