



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: AP000000004146



Dear [REDACTED]

On October 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 1, 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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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 \$93.00 per month, effective September 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

Procedural History

On July 31, 2015, the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the July 31, 2015 application, stating that you were eligible to receive an advance premium tax credit (APTC) of \$93.00 per month and that you were not eligible for cost-sharing reductions (CSR), effective September 1, 2015.

Also on July 31, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar you were found eligible for an APTC no greater than \$93.00 per month.

On August 1, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the July 31, 2015 application, stating that you were eligible to receive an APTC of up to \$93.00 per month and not eligible for CSR. This eligibility determination was effective September 1, 2015.

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On October 5, 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 supports the following findings of fact:

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of single. You will not claim any dependents on that tax return.
- 2) You are seeking insurance for only yourself.
- 3) The application that was submitted on July 31, 2015 listed an annual household income of \$35,000.00, consisting solely of income you expected to receive from your temporary position at [REDACTED]. You testified that this amount was correct at the time your application was submitted on July 31, 2015.
- 4) Your application states that you will not be taking any deductions on your 2015 tax return.
- 5) Your application states that you live in Kings County, New York.
- 6) You testified that while you are retained by [REDACTED], you have not been assigned work for a period of approximately one month, and now expect your 2015 income to be reduced to approximately \$30,000.00.

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)).

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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).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% 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 advance premium tax credit (APTC) of up to \$93.00 per month.

The application that was submitted on July 31, 2015 listed an annual household income of \$35,000.00 and the eligibility determination relied upon that information.

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

You reside in Kings County, New York, 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 299.91% of the 2014 FPL for a one-person household. At 299.91% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$278.76 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 (\$278.76 per month), which equals \$92.99 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$93.00 per month in APTC.

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

CSR are 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 299.91% of the applicable FPL, the Marketplace correctly found you to be ineligible for CSR.

Since the August 1, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$93.00 per month in APTC and ineligible for CSR, it is correct and is AFFIRMED.

You credibly testified, however, that your expected income during 2015 has decreased to approximately \$30,000.00 due to the lack of work being provided to you by [REDACTED]. Accordingly, we find there is enough evidence that your case should be RETURNED to the Marketplace for redetermination of eligibility based on an annual household income of \$30,000.00 for a one-person household in Kings County.

Decision

The August 1, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace for a redetermination of your current eligibility based on an annual household income of \$30,000.00 for a one-person household in Kings County, New York.

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit (APTC) of up to \$93.00 per month

You are ineligible for cost-sharing reductions (CSR).

You will receive a new notice of eligibility determination based on an annual household income of \$30,000.00 for a one-person household in Kings County, New York.

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 August 1, 2015 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace for redetermination of eligibility based on an annual household income of \$30,000.00 for a one-person household in Kings County.

You remain eligible for an advance premium tax credit (APTC) of up to \$93.00 per month

You are ineligible for cost-sharing reductions (CSR).

You will receive a new notice of eligibility determination based on an annual household income of \$30,000.00 for a one-person household in Kings County.

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:

