



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: AP000000004159

[REDACTED]

Dear [REDACTED]

On October 7, 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 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).

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NY State of Health Number: [REDACTED]
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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 advance premium tax credits or cost-sharing reductions, effective September 1, 2015?

Procedural History

On July 31, 2015, the Marketplace processed your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the last application submitted, stating you were eligible to enroll in a qualified health plan, but did not qualify for advance premium tax credits or cost-sharing reductions.

Also on July 31, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your eligibility for financial assistance.

On August 1, 2015, the Marketplace issued a notice of eligibility determination that, based on the information contained in your July 31, 2015 application, you were eligible to purchase a qualified health plan at full cost, effective September 1, 2015. It further stated that you did not qualify for advance premium tax credits because your application stated that the primary tax filers in your household were married but not filing taxes jointly. It also stated that you did not qualify for cost-sharing reductions because you were not eligible for advance premium tax credits.

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On October 7, 2015, you had a telephone hearing with a Hearing Officer from the Appeals Unit of NY State of Health. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

- 1) You testified that you will be filing your 2015 income tax return with a tax filing status of married filing separately. You further testified that you will claim one child that tax return.
- 2) You testified that you are currently married, but are in the process of filing for legal separation. You have not obtained a decree of divorce or of separate maintenance.
- 3) You testified that you last lived with your spouse in October 2014.
- 4) You testified that your children reside with your spouse.
- 5) Your application states that you live in Bronx County, New York.

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 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)).

Additionally, a tax filer who is married must generally file a joint return with his or her spouse in order to qualify for APTC (45 CFR § 155.305(f), 45 CFR § 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
 - a. files a separate return from his/her spouse and maintains his or her household as the primary home for a qualifying child;
 - b. pays more than one half of the cost of keeping up his or her home for the tax year; and
 - c. does not have his or her spouse as a member of the household during the last six months of the tax year

(26 USC § 7703(a); 26 USC § 7703(b)).

Cost-Sharing Reductions

Cost-sharing reductions 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 is whether the Marketplace properly determined that you were not eligible for advance premium tax credits or cost-sharing reductions.

In the eligibility determination notice issued on August 1, 2015, the Marketplace denied you an advance premium tax credit because you indicated that you were married but did not plan on filing a joint federal income tax return with your spouse.

To qualify for advance premium tax credits, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the information in the record and your testimony at the hearing, you are still married to your spouse and have not obtained a decree of divorce or of

separate maintenance. Also, you confirmed that you do not plan to file a joint federal income tax return with your spouse for the 2015 tax year.

There is an exception, as noted above, that allows a married tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for advance premium tax credits. However, the record does not support a finding that you meet the necessary requirements for that exception, because your children reside with your spouse and, as such, you do not maintain your household as the primary home for your children.

Therefore, the Marketplace was correct when it found that you were not eligible for advance premium tax credits due to your tax filing status.

Cost-sharing reductions are available only to those who meet the requirements for advance premium tax credits. Since you did not qualify for advance premium tax credits, the Marketplace correctly found that you were not eligible for cost-sharing reductions.

Since the Marketplace correctly determined that you are not eligible for advance premium tax credits or cost-sharing reductions, the August 1, 2015 notice of eligibility determination is **AFFIRMED**.

If you decide to change your federal income tax filing status for 2015, you can update your application to reflect this change and the Marketplace can redetermine your eligibility for financial assistance based on that update information.

Decision

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

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

You remain ineligible for an advance premium tax credit because you are married but not filing your 2015 federal income tax return jointly.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

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 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 notice is **AFFIRMED**.

You remain eligible to purchase a qualified health plan at full cost through New York State of Health.

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You remain ineligible for an advance premium tax credit because you are married but not filing your 2015 federal income tax return jointly.

You remain ineligible for cost-sharing reductions because you are not eligible for an advance premium tax credit.

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:

