



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

Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004223

[REDACTED]

Dear [REDACTED],

On October 27, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 2, 2015 eligibility determination notice.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004223

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that your eligibility for up to \$309.00 per month in advance premium tax credits, as well as cost-sharing reductions, was effective July 1, 2015?

Procedural History

On November 14, 2014, the Marketplace issued a notice that it was time to renew your health insurance for 2015. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2014 or you might lose the financial assistance you were currently receiving.

No updates were made to your account by December 15, 2014.

On December 22, 2014, the Marketplace issued a notice of eligibility redetermination stating that you were newly eligible to purchase a qualified health plan at full cost through NY State of Health effective January 1, 2015.

On December 23, 2014, the Marketplace issued a letter confirming your enrollment in a qualified health plan, with a monthly premium responsibility of \$665.90. The letter also stated that your coverage could start as early as January 1, 2015, provided you paid your first month's premium on time.

On June 1, 2015, the Marketplace received your updated application for health insurance.

On June 2, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were newly eligible to receive up to \$309.00 per month in advance premium tax credits and, if you selected a silver-level qualified health plan, eligible for cost-sharing reductions. This eligibility was effective July 1, 2015.

On July 28, 2015, the Marketplace issued a letter confirming your enrollment in a qualified health plan with a monthly premium responsibility of \$356.90, after your advance premium tax credit of \$309.00 was applied. The notice further stated that your advance premium tax credit will be applied to your monthly premium effective July 1, 2015.

On August 7, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on July 1, 2015 and not January 1, 2015.

On October 27, 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) Although your account now indicates that you receive alerts electronically from the Marketplace, you testified that initially you received notices by regular mail.
- 2) You testified that you did not receive any notices from the Marketplace telling you that you needed to update the information in your Marketplace account to ensure that your financial assistance would continue.
- 3) No notices sent to you at the address listed on your Marketplace account have been returned as undeliverable.
- 4) You testified that you did not know you needed to renew your application until June 2015 when you looked at your bank account and realized that your health plan had been auto-debiting more than \$600.00 for your premium payments each month.
- 5) The record reflects that your Marketplace account was updated on June 1, 2015.

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- 6) You testified that you paid your premiums every month for 2015 coverage beginning January 1, 2015.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the eligibility projected in the annual renewal notice (45 CFR § 155.335(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent in this case.

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has elected to do so (13 OHIP/ADM-03).

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, the Marketplace must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit

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year that correspond to the tax filer's total projected premium tax credit for the benefit year (45 CFR § 155.330(g)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your eligibility for cost-sharing reductions and up to \$309.00 per month in advance premium tax credits became effective on July 1, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the individual's eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 15, 2014, the Marketplace issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualify for financial help paying for your health coverage. You were asked to update the information in your account by December 14, 2014 or the financial help you were receiving might end.

You testified that you did not receive any notices informing you that your application needed to be updated.

The record indicates that the notices were issued to the address you have listed on your Marketplace account, and there is no indication that any of the notices were returned to the Marketplace as undeliverable. Therefore, there is insufficient evidence that the proper notices were not sent.

The record shows that your application was updated on June 1, 2015. This resulted in the June 2, 2015 eligibility determination notice that stated you were newly eligible to receive up to \$309.00 per month in advance premium tax credits

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and, if you selected a silver-level qualified health plan, for cost-sharing reductions. This eligibility was effective July 1, 2015.

When an individual changes information in their application before the 15th of any month, the Marketplace must make the redetermination that results from the change effective the first day of the next following month.

Therefore, the Marketplace's June 2, 2015 eligibility determination is correct insofar as it properly began your eligibility for advance premium tax credits on July 1, 2015.

However, when advance premium tax credits are recalculated mid-year, the Marketplace is required to prorate monthly amounts to reflect advance premium tax credits that have already been received, to ensure that the advance premium tax credits you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2015 tax year. It appears that the Marketplace did not do this. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received advance premium tax credits for the entire 12 months of the year.

Therefore, the June 2, 2015 eligibility determination is MODIFIED to reflect that you are tentatively eligible to receive up to \$309.00 per month in advance premium tax credits and the matter is returned to the Marketplace to calculate the amount of advance premium tax credits you should have been receiving for the last six months of 2015 on a pro rata basis.

Decision

The June 2, 2015 eligibility determination is MODIFIED to reflect that you are tentatively eligible to receive up to \$309.00 per month in advance premium tax credits effective July 1, 2015.

The matter is RETURNED to the Marketplace to calculate the amount of advance premium tax credits you should have received (or will receive) for the last six months of 2015 on a pro rata basis.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

You are tentatively eligible for up to \$309.00 in advance premium tax credits and cost-sharing reductions effective July 1, 2015; this amount may change depending on the Marketplace's recalculation.

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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 June 2, 2015 eligibility determination is MODIFIED to reflect that you are tentatively eligible to receive up to \$309.00 per month in advance premium tax credits effective July 1, 2015.

The matter is RETURNED to the Marketplace to calculate the amount of advance premium tax credits you should have received (or will receive) for the last six months of 2015 on a pro rata basis.

You are tentatively eligible for up to \$309.00 in advance premium tax credits and cost-sharing reductions effective July 1, 2015; this amount may change depending on the Marketplace's recalculation.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

