



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

Notice of Decision

Decision Date: December 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004467

[REDACTED]

Dear [REDACTED],

On November 18, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 26, 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 45 Code of Federal Regulations (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, as of August 25, 2015, you were not eligible for advance premium tax credits because your income was over the allowable limit?

Did the Marketplace properly determine that, as of August 25, 2015, you were not eligible to receive cost-sharing reductions?

Procedural History

On August 25, 2015, the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible to purchase a qualified health plan at full cost.

Also on August 25, 2015 you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not approved for advance premium tax credits.

On August 26, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the August 25, 2015 application, stating that you were eligible to purchase a qualified health plan at full cost, effective October 1, 2015. The notice further stated that you did not qualify to receive tax credits because your income was over the allowable limit for that program and that you were not eligible for cost-sharing reductions because you were not eligible to receive an advance premium tax credit.

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On November 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you the opportunity to submit proof of your income from your current employer. On November 18, 2015 you faxed copies of your most recent paystub from your employer to the Appeals Unit and it was marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

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 single. You will claim no dependents on that tax return.
- 2) The application that was submitted on August 25, 2015 listed an annual household income of \$53,560.00. This amount consisted of \$44,260.00 in earned income and \$9,300.00 in additional income.
- 3) You testified that the earned income consisted of income from two different employers.
- 4) You testified that in the first part of the year you received income of \$35,170.65 from your employment with [REDACTED] but you left that job and began working for [REDACTED] for less pay.
- 5) You testified that so far with [REDACTED] you have earned \$8,715.90 and you expect to earn an additional \$2,000.00 from that job by the end of 2015.
- 6) You testified that you also receive income from a rental property and that you expect to receive \$9,300.00 in additional income.
- 7) Your application states that you live in Albany 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)

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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)).

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).

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)).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were not eligible for an advance premium tax credit because you were over the allowable income limit for that program.

You are in a one-person household. You expect to file you 2015 income taxes as single and will claim no dependents on that tax return.

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The application that was submitted on August 25, 2015 listed an annual household income of \$53,560.00, and the Marketplace relied on that figure in determining your eligibility. This amount consisted of \$44,260.00 in earned income and \$9,300.00 in additional income.

However, you testified that the earned income consisted of income from two different employers. You testified that in the first part of the year you received income of \$35,170.65 from your employment with [REDACTED] but you left that job and began working for [REDACTED] for less money.

The Marketplace calculates an applicant's eligibility for advance premium tax credits based on the total expected annual income that applicant expects to receive over the duration of the 2015 tax year.

In your case, even though you switched employers and began earning less income, the \$35,170.65 you received from your previous employer is still included in your modified adjusted gross income because it was earned during the 2015 tax year. When added to the additional income you testified to, your income for 2015 was \$55,186.55, which is in fact higher than the figure used by the Marketplace in determining your eligibility.

Since the annual 2015 FPL for a one-person household is \$11,670.00, you may qualify for an advance premium tax credit if your annual household income is between \$16,105.00 (138% FPL) and \$46,680.00 (400% FPL).

The household income that was listed on your August 25, 2015 application places you at 458.95% of the FPL. The maximum income amount for APTC eligibility for a one-person household is \$46,680.00 (400.00% FPL). Since you earn more than the allowable maximum for this program, you are not eligible for an advance premium tax credit.

The second issue is whether the Marketplace properly determined that you were not eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who is eligible to receive advance premium tax credits and has an annual household income that does not exceed 250% of the FPL. Since you are not eligible for advance premium tax credits, you are also not eligible for cost-sharing reductions.

Therefore, the August 26, 2015 eligibility determination is AFFIRMED because it properly stated that you do not qualify to receive tax credits because your income was over the allowable limit for that program and you are not eligible for cost-sharing reductions because you are not eligible to receive an advance premium tax credit.

Decision

The August 26, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: December 16, 2015

How this Decision Affects Your Eligibility

You remain eligible to enroll in a qualified health plan at full cost.

You are not eligible for an advance premium tax credit or for cost-sharing reductions.

Please note that this decision only applies to your eligibility for the year 2015. For insurance coverage starting January 1, 2016, you will need to reapply with the Marketplace during the Open Enrollment Period. The Open Enrollment Period for 2016 health coverage is November 1, 2015 to January 31, 2016. For more information on Open Enrollment please go to <https://nystateofhealth.ny.gov/> or contact the Marketplace at the contact information listed in this decision.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

The August 26, 2015 eligibility determination notice is **AFFIRMED**.

You remain eligible to enroll in a qualified health plan at full cost.

You are not eligible for an advance premium tax credit or for cost-sharing reductions.

Please note that this decision only applies to your eligibility for the year 2015. For insurance coverage starting January 1, 2016, you will need to reapply with the Marketplace during the Open Enrollment Period. The Open Enrollment Period for 2016 health coverage is November 1, 2015 to January 31, 2016. For more information on Open Enrollment please go to <https://nystateofhealth.ny.gov/> or contact the Marketplace at the contact information listed in this decision.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

