



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

Notice of Decision

Decision Date: December 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004470

[REDACTED]

Dear [REDACTED],

On November 17, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 25, 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 up to \$249.00 per month in advance premium tax credit, effective October 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

Procedural History

On August 25, 2015, the Marketplace received your updated application for health insurance. That day, an eligibility determination was prepared finding you newly eligible to receive advance premium tax credits and cost sharing reductions in the amount of \$249.00 per month effective October 1, 2015. This determination was made based upon the household income you provided of \$24,024.00.

That same day you enrolled in a Silver level health plan through the Marketplace with a premium responsibility of \$379.00. Your enrollment was effective September 1, 2015.

In addition, that same day you contacted the Marketplace's Account Review Unit and appealed the level of advance premium tax credits and cost sharing reductions you were found eligible to receive.

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On October 23, 2015, a notice of telephone hearing was issued for a scheduled hearing on November 17, 2015 at 11:00 am.

On November 17, 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

- 1) You testified that you will be filing your 2015 taxes as single
- 2) You will not be claiming any dependents on your 2015 taxes.
- 3) Your application states that you will not be taking any deductions on your 2015 tax return.
- 4) The application that was submitted on August 25, 2015 listed an annual household income of \$24,024.00 you will receive from your employment.
- 5) You testified that you live in Suffolk County, New York.
- 6) You testified that you selected and enrolled in a Silver level health plan but that the premium responsibility is too high.
- 7) You are seeking a higher level of tax credits in order to help pay for the cost of your insurance.

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

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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 \$ 11,670 for a one-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 200% but less than 250% of the 2015 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).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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

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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)). *Living expenses, such as rent and utilities are not an allowable deductions in computing adjusted gross income.*

Generally, gross income does not include “amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer)” (26 USC § 104(a)(3)).

An individual’s income from Social Security benefits is included in their gross income only to the extent that the sum of the person’s IRS-defined “modified adjusted gross income” and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse were eligible for an advance premium tax credit (APTC) of up to \$249.00 per month.

The application that was submitted on August 25, 2015 listed an annual household income of \$24,024.00 and the eligibility determination relied upon that information.

You are in a one person household. You expect to file you 2015 income taxes as single.

You reside in Suffolk County, New York, where the second lowest cost silver plan available for a couple through the Marketplace costs \$379.93 per month.

An annual income of \$24,024.00 is 205.86% of the 2014 federal poverty level (FPL) for a one-person household. At 205.86% of the FPL, the expected contribution to the cost of the health insurance premium is 6.55% of income, or \$130.13 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 (\$379.93 per month) minus your expected contribution (\$130.13 per month), which equals \$249.80 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$249.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$24,024.00 is 205.86% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). If your household's income you reported to the Marketplace differs from the amount you report on your 2015 income tax return, you may be responsible for a tax penalty.

Since the August 25, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$249.00 per month in APTC and eligible for cost sharing reductions, it is correct and is AFFIRMED.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for an application

Decision

The August 25, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: December 18, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$249.00 in advance premium tax credits.

This decision has not effect on subsequent eligibility determinations made after the August 25, 2015 determination.

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 25, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$249.00 in advance premium tax credits.

This decision has not effect on subsequent eligibility determinations made after the August 25, 2015 determination.

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:

