



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

Notice of Decision

Decision Date: January 22, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004718

[REDACTED]

Dear [REDACTED],

On December 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 17, 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 and the NY State of Health 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 you were eligible to receive an advance premium tax credit of up to \$0.00 per month, effective November 1, 2015?

Did the Marketplace properly determine that you were ineligible for cost-sharing reductions, effective November 1, 2015?

Procedural History

On September 16, 2015, the Marketplace received your application for health insurance for only yourself, in which you attested to an annual household income of \$47,736.50. That day, a preliminary eligibility determination was prepared with regard to the September 16, 2015 application, stating that you were found eligible for an advanced premium tax credit (APTC) of \$0.00, effective November 1, 2015. The notice further requested that you provide additional documentation verifying your level of income, in order to confirm your eligibility.

Also on September 16, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the September 16, 2015 preliminary eligibility determination insofar as you were effectively found ineligible for an APTC at that time.

On September 17, 2015, the Marketplace issued an eligibility determination formalizing the findings in the September 16, 2015 preliminary eligibility

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determination. The notice stated that you were conditionally eligible to receive an APTC of \$0.00, ineligible for cost-sharing reductions (CSR), and ineligible for Medicaid. You were directed to provide documentation to confirm your income before December 15, 2015, or you might lose your eligibility to obtain health insurance or your financial assistance. This eligibility determination was effective November 1, 2015.

On December 11, 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 live with your spouse and have no children.
- 2) You testified that you expect to file your 2015 taxes with a tax filing status of married filing jointly. You would not be claiming any dependents on that tax return.
- 3) The application that was submitted on September 16, 2015 listed annual household income of \$47,736.50, consisting of (1) \$29,396.51 you received from your employment with [REDACTED] between January 1, 2015 and July 21, 2015, (2) \$420.00 per week you received in unemployment benefits over a period of 22 weeks, and (3) \$175.00 per week your spouse received from [REDACTED]. You testified that these amounts were correct.
- 4) Your application stated that you did not anticipate taking any deductions on your 2015 tax return.
- 5) You testified that your employment with [REDACTED] ended on July 21, 2015.
- 6) You testified that you were awarded \$420.00 per week in unemployment benefits on or about July 21, 2015, and that you began receiving these benefits during the first week of August 2015.
- 7) You live in New York County, New York.
- 8) You testified that you believed the determination that you were not eligible for any tax credits was unfair due to the cost of living in New York City and the fact that your circumstances had changed since your position with [REDACTED] was eliminated. You further testified that the eligibility for tax credits is more reasonably calculated on an anticipated monthly income, rather than an expected annual income.

- 9) You testified that you were not interested in a review of your eligibility for Medicaid since you anticipated obtaining employment in the near future.

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)).

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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution is 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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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 \$0.00 per month.

The application that was submitted on September 16, 2015 listed an annual household income of \$47,736.50, which consisted of (1) \$29,396.51 you received from your employment with [REDACTED] between January 1, 2015 and July 21, 2015, (2) \$9,240.00 (\$420.00 x 22 weeks) you anticipate receiving during 2015, and (3) \$9,100.00 (\$175.00 x 52 weeks) your spouse anticipates receiving from [REDACTED]

The eligibility determination relied upon that information.

You are in a two-person household. You expect to file you 2015 income taxes as married filing jointly and will not claim any dependents on that tax return.

You reside in New York County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$47,736.50 is 303.47% of the 2014 FPL for a two-person household. At 303.47% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$380.30 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 (\$380.30 per month). Since your expected month contribution exceeded the cost of the second lowest cost silver plan available for an individual in your county, the Marketplace correctly determined you to be eligible for an APTC of up to \$0.00 per month at this time.

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

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$47,736.50 is 303.47% of the applicable FPL, the Marketplace correctly found you to be ineligible for cost sharing reductions.

Since the September 17, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of \$0.00 per month and ineligible for CSR, it is correct and is AFFIRMED.

Decision

The September 17, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 22, 2016

How this Decision Affects Your Eligibility

You remain eligible for an APTC of \$0.00 per month in 2015.

You were ineligible for CSR in 2015.

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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Summary

The September 17, 2015 eligibility determination is AFFIRMED.

You were eligible for an APTC of up to \$0.00 in 2015.

You were ineligible for CSR in 2015.

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:

