



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

## Notice of Decision

Decision Date: January 05, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004773

[REDACTED]

Dear [REDACTED],

On December 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 23, 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).

This page intentionally left blank.



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

## Decision

Decision Date: January 05, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004773



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine on December 21, 2014 that you were eligible to purchase a qualified health plan at full cost, effective January 1, 2015?

Did the Marketplace properly determine that you were newly eligible for advance premium tax credits and cost-sharing reductions, effective November 1, 2015?

## Procedural History

On November 6, 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 or not 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 24, 2014, the Marketplace issued a letter confirming your enrollment in a qualified health plan, with a monthly premium responsibility of \$404.16. The letter also stated that your coverage could start as early as January 1, 2015 if you paid your first month's premium.

On September 23, 2015, the Marketplace received your updated application for health insurance.

On September 23, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were newly eligible to receive up to \$103.00 per month in advance premium tax credits (APTC) and, if you selected a silver-level qualified health plan, for cost-sharing reductions (CSR). This eligibility was effective November 1, 2015.

On September 23, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it began your financial assistance eligibility on November 1, 2015, and not January 1, 2015.

On November 25, 2015, the Marketplace issued a letter confirming your enrollment in a qualified health plan with a monthly premium responsibility of \$383.54, effective December 1, 2015.

On December 3, 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) Your Marketplace account indicates that you receive notices from the Marketplace via 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 coverage would not be interrupted and 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 you had come back from out of the country.
- 5) You testified that you updated the information in your Marketplace Account on September 23, 2015.

- 6) You testified that you paid \$404.16 per month for all of your 2015 for your premiums and that you used your insurance during your coverage dates.

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 information by which the Marketplace will use to redetermine a qualified individual's eligibility for that 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 information provided 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)).

### Redetermination During a Benefit Year

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 (or not 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 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 first issue under review is whether the Marketplace properly determined that you were eligible to enroll in a qualified health plan only at full cost, effective January 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 information by which the Marketplace will use to determine an 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 6, 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 15, 2014 or the financial help you were receiving might end.

You testified that you did not know you needed to renew your application until you had come back from out of the country. You testified that you used your insurance and had been paying the full cost of premium during 2015 until your updated application on September 23, 2015.

The record indicates that the renewal notice was issued via regular mail to the address you have listed on your Marketplace account, and there is no indication that any of the notices issued to you were returned to the Marketplace as undeliverable. Therefore, the renewal notice is deemed to have been sent to the proper address.

Since the Marketplace had not received any updated information from you by the time of the deadline stated in the renewal notice, on December 22, 2014, an eligibility redetermination notice was issued that stated you were eligible to purchase a qualified health plan at full cost effective January 1, 2015. The reason given was that you were not eligible to receive APTC, effective January 1, 2015, because renewal period and income data was not available. This finding was

necessitated by the federal regulations noted above and, therefore, the Marketplace's December 22, 2014 eligibility determination notice is AFFIRMED.

The second issue under review is whether the Marketplace properly determined that your eligibility for APTC became effective no earlier than November 1, 2015.

The record shows that your application was updated on September 23, 2015. This resulted in the September 23, 2015 eligibility determination notice that stated you were newly eligible to receive up to \$103.00 in APTC. This eligibility was effective November 1, 2015.

When an individual changes information in their application after the 15th of any month, the Marketplace must make the redetermination that results from the change effective the first day of the second following month. In your case, that was November 1, 2015.

Therefore, the Marketplace's September 23, 2015 eligibility determination is AFFIRMED because it properly began your eligibility for APTC on November 1, 2015.

When APTC is recalculated mid-year, the Marketplace is ordinarily required to prorate monthly amounts to reflect APTC that has already been received, to ensure that the APTC 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. At this late date, however, any difference in APTC to which you might have been entitled during 2015 can be reconciled when you file your 2015 income tax return with your accurate income information. If you received less tax credit than your maximum entitlement, based on gross income, you be entitled to receive an income tax refund, or owe less in taxes.

## **Decision**

The December 22, 2014 eligibility determination notice is AFFIRMED.

The September 23, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** January 05, 2016

## **How this Decision Affects Your Eligibility**

You are eligible to receive to \$103.00 per month of APTC effective November 1, 2015.

If you received less tax credit than your maximum entitlement, based on gross income, you be entitled to receive an income tax refund, or owe less in taxes, which can be reconciled when you file your 2015 income tax return.

### **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

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).



## **Summary**

The December 22, 2014 eligibility determination notice is AFFIRMED.

The September 23, 2015 eligibility determination notice is AFFIRMED.

You are eligible to receive up to \$103.00 per month of APTC effective November 1, 2015.

If you received less tax credit than your maximum entitlement, based on gross income, you be entitled to receive an income tax refund, or owe less in taxes, which can be reconciled when you file your 2015 income tax return.

## **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:**

