



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: AP000000004863

[REDACTED]

Dear [REDACTED],

On December 4, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 3, 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 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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NY State of Health Number: [REDACTED]
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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 \$0.00 per month, effective November 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

Procedural History

The Marketplace received two applications for health insurance on October 2, 2015. In each application, you attested to an annual household income of \$48,104.00.

On October 3, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the last application submitted on October 2, 2015. The notice stated that you were eligible for an advance premium tax credit (APTC) of \$0.00 per month and ineligible for cost-sharing reductions (CSR). This eligibility determination was effective November 1, 2015.

Also on October 3, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal insofar as you were found eligible for \$0 in APTC.

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On December 4, 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, and your application reflects, that you live with your spouse. You further testified that you have two children, but they are grown and no longer live with you.
- 2) You testified, and your application reflects, that you expect to file your 2015 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 3) You are seeking insurance only for yourself, since your spouse is now receiving Medicare coverage through the Social Security Administration (SSA).
- 4) Each of the applications submitted on October 2, 2015 included an attestation by you that your annual household income for 2015 was \$48,014.00, which was comprised of (1) \$12,000.00 your spouse expects to receive from her employer, [REDACTED], (2) \$1,017.00 per month your spouse receives in Social Security benefits (3) \$1,825.00 per month you receive in Social Security benefits, and (4) \$2,000.00 you expect to receive in taxable interest, which you clarified during the hearing was related to interest you receive as a lender of a loan to a third party. You testified that this amount was correct when you provided you submitted your October 2, 2015 application.
- 5) The October 2, 2015 applications stated that you will not be taking any deductions on your 2015 tax return.
- 6) You live in Queens County, New York.
- 7) You testified that prior to your switching from a couple's plan through the Marketplace to a plan for an individual, you were receiving approximately \$360.00 per month in APTC.
- 8) You testified that since your spouse is now receiving Medicare through the Marketplace, you were found eligible for \$0 in APTC, and your spouse has had to pay premium amounts for both the drug and supplemental coverage through Medicare. As a result, your combined premiums responsibilities now exceed what you had been paying when both you and your spouse were receiving coverage through the Marketplace.

- 9) You testified that you were seeking a higher APTC in order to offset your increased premium responsibility.

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 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) for 2015 of \$0.00 per month.

The applications submitted on October 2, 2015 listed an annual household income of \$48,104.00, which was comprised of (1) \$12,000.00 your spouse expects to receive from her employer, [REDACTED], (2) \$12,204.00 (\$1,017.00 x 12 months) your spouse expects to receive in Social Security benefits (3) \$21,900.00 (\$1,825.00 x 12 months) you expect to receive in Social Security benefits, and (4) \$2,000.00 you expect to receive in taxable interest, which you clarified during the hearing was related to interest you receive as a lender of a loan to a third party. 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 Queens County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$48,401.00 is 305.81% of the 2014 FPL for a two-person household. At 305.81% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$383.59 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 (\$383.59 per month).

Currently the law does not provide for any adjustment of your expected contributions based on expenditures your family makes on health plans outside the Marketplace, such as Medicare.

Since your expected monthly contribution exceeded the second lowest cost silver plan available through the Marketplace for an individual in your county, the

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Marketplace correctly determined you to be eligible for an APTC of \$0.00 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 \$48,401.00 is 305.81% of the applicable FPL, the Marketplace correctly found you to be ineligible for CSR.

Since the October 3, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$0.00 per month in APTC and ineligible for CSR, it is correct and is AFFIRMED.

Decision

The October 3, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: December 16, 2015

How this Decision Affects Your Eligibility

You remain eligible for an APTC of up to \$0.00 per month.

You are ineligible for CSR.

This Decision has no effect on any eligibility determination issued on or after October 3, 2015, including the November 10, 2015 determination finding you eligible for an APTC of up to \$33.00, effective December 1, 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.

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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 October 3, 2015 eligibility determination notice is **AFFIRMED**.

You remain eligible for an APTC of up to \$0.00 per month.

You are ineligible for CSR.

This Decision has no effect on any eligibility determination issued on or after October 3, 2015, including the November 10, 2015 determination finding you eligible for an APTC of up to \$33.00, effective December 1, 2015.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

