



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

Notice of Decision

Decision Date: January 15, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004886

[REDACTED]

Dear [REDACTED],

On December 22, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 2, 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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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 are eligible to receive an advanced premium tax credit of up to \$69.00 per month as of October 2, 2015?

Did the Marketplace properly determine that you are not eligible for cost-sharing reductions as of October 2, 2015?

Procedural History

On October 2, 2015, the Marketplace issued a notice of eligibility determination stating that you are eligible to receive up to \$69.00 per month of advance premium tax credits. The notice also stated that you are not eligible for cost-sharing reductions and Medicaid because the household income you provided is over the allowable income limit.

On October 7, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal insofar the amount of financial assistance you were determined eligible to receive.

On December 22, 2015, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was developed and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of facts:

1. You are applying for health insurance through the Marketplace for yourself.
2. According to your Marketplace account, you plan on filing a 2015 federal income tax return, with the tax status of married filing jointly and will not claim any dependents on that return.
3. According to your October 1, 2015 Marketplace application, you anticipate your 2015 household income to be \$42,770.00.
4. You faxed an Explanation of Benefit Statement for your Long-Term Disability Benefits from [REDACTED] to the Marketplace. The Benefit Statement indicated that you were entitled to a gross benefit of \$2,080.00 for the period of August 15, 2015 through September 14, 2015. The statement shows that you received a net deposit of \$1,240.56. The "TAX REPORTING INFORMATION" on this statement shows federal taxable wages of \$1,343.33 from this payment.
5. You testified that you have received a monthly deposit of \$1,240.56 from [REDACTED] since July 2015 and anticipate receiving the same monthly deposit until December 2015.
6. You testified that your Long-Term Disability Benefits through [REDACTED] may stop in January 2016.
7. According to your October 1, 2015 Marketplace application, you were employed at [REDACTED] from January 1, 2015 through April 15, 2015.
8. You faxed your Earnings Statement from [REDACTED] to the Marketplace for the period of April 12, 2015 through April 25, 2015. The Earnings Statement indicates a year-to-date gross pay of \$12,885.00. The Earnings Statements indicates that the year-to-date amounts of \$169.92, \$88.47, \$1,164.00 and \$386.56 would be excluded from your federal taxable wages.
9. You faxed your spouse's Social Security Benefit Statement to the Marketplace. The statement indicates that your spouse is entitled to \$2,249.90 (before deductions) monthly in Social Security benefits in 2015.
10. You testified that the plans offered through the Marketplace are not affordable.

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11. You reside in Suffolk 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 2014 federal 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 at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), IRS Rev. Proc. 2014-37).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested (45 CFR § 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, 3593).

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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 income tax form). 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. 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).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan (QHP). Such an exemption may be granted if that person can show that 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 qualified health plan (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)).

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 plan year coverage is requested and (4) is enrolled in a silver-level QHP (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 up to \$69.00 per month.

In the application that was submitted on October 2, 2015, you attested to an expected yearly household income of \$42,770.00, and the eligibility determination relied upon that information.

According to the record you plan on filing your 2015 federal income tax return with the tax status of married filing jointly, with your spouse, and will claim no dependents on that return. Therefore, the record indicates that you are a tax household of two.

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

An annual income of \$42,770.00 is 271.90% of the 2014 Federal Poverty Level (FPL) for a two-person tax household. At 271.90% of the FPL, the expected contribution to the cost of the health insurance premium is 8.74% of income, or \$311.51 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 (\$311.51 per month), which equals \$68.42 per month. Therefore, the Marketplace correctly determined that you are eligible to receive an APTC up to \$69.00 per month.

However, based on the available record, your spouse will receive (\$2,249.00 X 12) \$26,988.00 in Social Security Benefits in 2015. Furthermore, the record supports that you will be issued (\$1,343.33 X 6) \$8,059.98 in federal taxable wages from [REDACTED] and issued (\$12,885.00 - \$1,808.95) \$11,076.05 from [REDACTED] in federal taxable wages in 2015. Since the premium tax credit that can be authorized on an expected income of \$46,124.03 is not materially different than the credit that can be authorized on the increase in annual household, that difference will be properly reconciled on a federal individual income tax return.

The second issue is whether the Marketplace properly determined that you were 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 \$42,770.00 is 271.90% of the 2014 FPL, the Marketplace correctly found you to be not eligible for cost-sharing reductions.

Since the October 2, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$69.00 per month and not eligible for cost-sharing reductions, it is correct and is AFFIRMED.

You testified that your Long-Term Disability Benefits through [REDACTED] may stop in January 2016. At this time the record does not contain sufficient testimony or documentation to return your case to Marketplace to recalculate you benefits on a yearly or monthly basis. However, please contact the Marketplace when you have sufficient documentation of your change in income.

Decision

The October 2, 2015, eligibility determination is AFFIRMED.

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Effective Date of this Decision: January 15, 2016

How this Decision Affects Your Eligibility

The October 2, 2015 eligibility determination is correct, so it remains in effect.

You are eligible for an advance premium tax credit of up to \$69.00 per month and not eligible for cost-sharing reductions.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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

Please contact the Marketplace when you have sufficient documentation of your change in income.

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

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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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The October 2, 2015, eligibility determination is **AFFIRMED**.

The October 2, 2015 eligibility determination is correct, so it remains in effect.

You are eligible for an advance premium tax credit of up to \$69.00 per month and not eligible for cost-sharing reductions.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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

Please contact the Marketplace when you have sufficient documentation of your change in income.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

