



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

Notice of Decision

Decision Date: February 16, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004921

[REDACTED]

Dear [REDACTED],

On December 29, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 14, 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: February 16, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004921

[REDACTED]

Issues

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

Did the Marketplace properly determine that you and your spouse were eligible to receive up to \$441.00 per month in advance premium tax credit effective November 1, 2015?

Did the Marketplace properly determine that you and your spouse were eligible for cost-sharing reductions effective November 1, 2015?

Can your advance premium tax credit be applied retro-actively to your health plan effective March 1, 2015?

Procedural History

On February 10, 2015, the Marketplace received your own individual application for non-financial assistance.

That same day an eligibility determination was made finding you eligible to purchase a qualified health plan at full cost effective March 1, 2015.

Also on that same day an enrollment confirmation notice was issued confirming your enrollment in a Qualified Platinum level health plan with a start date of March 1, 2015 as long as you paid your first month's premium.

On October 12, 2015, you requested to end your insurance coverage through Fidelis Care effective October 31, 2015.

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).

On October 14, 2015, the Marketplace received your updated application for financial assistance.

That same day an eligibility determination was made finding you newly eligible and your spouse eligible to receive advance premium tax credits in the amount of \$441.00 per month, and cost-sharing reductions, effective November 1, 2015.

Also on that same day an enrollment confirmation notice was issued confirming you and your spouse's enrollment in a Qualified Silver level health plan effective November 1, 2015.

On October 15, 2015, you requested an appeal in order to backdate your spouse's eligibility to March 1, 2015 due to broker's error in your original non-financial application.

On December 29, 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

The record supports the following findings of fact:

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly.
- 2) You will not be claiming any dependents.
- 3) You are seeking insurance for yourself and your spouse.
- 4) The application that was submitted on October 14, 2015 listed annual household income of \$30,120.00, consisting of \$25,620.00 you receive in Social Security benefits and \$4,500.00 your spouse receives in earned income. You testified that this amount was correct.
- 5) You testified that when you first contacted the Marketplace on October 14, you were looking to add your spouse to your application.
- 6) The record reflects that you had originally applied for insurance with a non-financial application on February 10, 2015 with the assistance of a broker. This original application was completed, but did not include your spouse.
- 7) Your testimony supports that you live in Niagara County.

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).

- 8) You are seeking to have the advance premium tax credit that you were found eligible for on October 14, 2015 applied retroactively to your plan effective March 1, 2015.

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 150% but less than 200% of the 2015 FPL, the expected contribution is between 4.02% and 6.34% 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 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)).

Married couples. In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return under section 6013 of the Code or whether one spouse expects to be claimed as a tax dependent by the other spouse. (42 CFR § 435.603 (f)(4)).

End of Tax Year Reconciliation

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).

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 is whether the Marketplace properly determined that you and your spouse were eligible for an advance premium tax credit (APTC) of up to \$441.00 per month.

The application that was submitted on October 14, 2015 listed an annual household income of \$30,120.00 and 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 be claiming any dependents.

You reside in Niagara County, where the second lowest cost silver plan available for a couple through the Marketplace costs \$590.03 per month.

An annual income of \$30,120.00 is 191.48% of the 2014 Federal Poverty Level (FPL) for a two-person household. At 191.48% of the FPL, the expected contribution to the cost of the health insurance premium is 5.94% of income, or \$149.09 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 a couple in your county (\$590.03 per month) minus your expected contribution (\$149.09 per month), which equals \$440.94 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your spouse to be eligible for up to \$441.00 per month in APTC.

The second issue is whether you and your spouse 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 \$30,120.00 is 191.48% of the applicable FPL, the Marketplace correctly found you and your spouse eligible for cost sharing reductions.

The third issue under review is whether your advance premium tax credit can be applied to your health plan retroactive to March 1, 2015.

The record shows that your application was updated on September 23, 2015, and was changed from a non-financial application, to a financial application. This resulted in the September 23, 2015 eligibility determination notice that stated you were newly eligible to receive up to \$441.00 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 your application was completed on October 15, 2015 so your effective date for receiving APTC through your health plan would be by November 1, 2015.

Therefore, the Marketplace's October 14, 2015 eligibility determination is AFFIRMED because it properly began you and your spouse's eligibility for APTC on November 1, 2015.

Please note that 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

Decision

The October 14, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: February 16, 2016

How this Decision Affects Your Eligibility

You and your spouse are eligible to receive to \$441.00 per month of APTC effective November 1, 2015.

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 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).

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

Summary

The October 14, 2015 eligibility determination is **AFFIRMED**.

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).

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.

You and your spouse are eligible to receive to \$441.00 per month of APTC effective November 1, 2015.

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:

