



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: AP000000004954



Dear [REDACTED],

On January 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 28, 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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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 \$490.00 monthly of advance premium tax credit as of August 28, 2015?

Did the Marketplace properly determine that you and your spouse were eligible for cost-sharing reductions as of August 28, 2015?

Did the Marketplace error in not determining you and your spouse eligible for the APTC Premium Assistance Program as of August 28, 2015?

Procedural History

On November 8, 2014 the Marketplace issued an eligibility determination notice that you and your spouse were eligible for up to \$626.24 monthly of advance premium tax credit and cost-sharing reductions, if you enroll in a silver-level health plan. The notice also stated that you were eligible for APTC Premium Assistance, if you apply all of your tax credit and enroll in a silver-level health plan.

On August 27, 2015, you updated your Marketplace account.

On August 28, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$490.00 monthly of advance premium tax credit, and eligible to receive cost-sharing reductions, if you enroll in a silver-level qualified health plan, effective October 1, 2015.

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On October 19, 2015 you spoke to the Marketplace's Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible to receive.

On January 7, 2016, 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

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

1. You are applying for health insurance through the Marketplace for yourself and your spouse.
2. You plan on filing a 2015 federal income tax return with the tax status of married filing jointly, with your spouse, and will claim three dependents on that tax return.
3. You testified that your income source is [REDACTED] and you expect to earn \$45,000.00 in 2015.
4. You testified that your spouse was employed at [REDACTED] from January 1, 2015 until March 31, 2015 and earned \$7,500.00.
5. On November 8, 2014 the Marketplace issued an eligibility determination notice that you and your spouse were eligible for up to \$626.24 monthly of advance premium tax credit and cost-sharing reductions, if you enroll in a silver-level health plan. The notice also stated that you were eligible for APTC Premium Assistance, if you apply all of your tax credit and enroll in a silver-level health plan.
6. You updated your Marketplace account on August 27, 2015. You entered an expected annual household income of \$52,500.00 and changed your three children's address information.
7. On August 28, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse are eligible to receive up \$490.00 monthly of advance premium tax credit, and eligible to receive cost-sharing reductions, if you enroll in a silver-level qualified health plan, effective October 1, 2015.
8. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.
9. You currently reside in New York, NY.

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10. You are seeking to be reimbursed for the \$810.18 in health insurance premiums you paid in 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 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 the 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).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (see 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 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 \$27,910.00 for a five-person household (79 Fed. Reg. 3593, 3593).

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

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APTC, (3) is expected to have an annual household income that does not exceed 250 percent 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)).

APTC Premium Assistance

APTC Premium Assistance is available in New York State to a person who:

- 1) is a parent of a child under 21 years old;
- 2) has a household income greater than 138% of the FPL but less than or equal to 150% of the FPL for the applicable family size;
- 3) is not eligible for Medicaid;
- 4) is enrolled in a silver-level qualified health plan; and
- 5) is applying the full amount of the APTC to the cost of the plan

(N.Y. Soc. Serv. Law § 367-a(3)(e)).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a 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 QHP (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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse are eligible for up to \$490.00 of advance premium tax credit.

According to the record, you have a five-person tax household. You expect to file your 2015 federal income tax return with the tax status of married filing jointly, with your spouse, and claim three dependents on that return.

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You reside in New York County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$743.50 per month.

The August 28, 2015 eligibility determination was based on an annual household income of \$52,500.00, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$52,500.00 equals 188.10% of the 2014 federal poverty level (FPL) for a five-person household. At 188.10% of the FPL, the expected contribution to the cost of the health insurance premium is 5.79% of income, or \$253.23 per month.

The maximum amount of advance premium tax credit (APTC) that can be awarded equals the cost of the second lowest cost silver plan in your county (\$743.50 per month) minus your expected contribution (\$253.23 per month), which equals \$490.27 per month. Therefore, the Marketplace correctly computed your APTC to be \$490.00 per month.

The second issue is whether the Marketplace properly determined that you and your spouse are eligible for cost-sharing reductions, if you enroll in a silver-level qualified health plan.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 188.10% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

The third issued is whether the Marketplace properly determined that you and your spouse are not eligible for the APTC Premium Assistance program.

APTC Premium Assistance is available to a person who has an annual household income that is no more than 150% of the FPL. Since an annual household income of \$52,500.00 is 188.10% of the 2014 FPL, you were not eligible for APTC Premium Assistance as of August 28, 2015, based on the information provided.

Since the August 28, 2015 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for an APTC of up to \$490.00 per month, eligible for cost-sharing reductions, and did not find you and your spouse eligible for the APTC Premium Assistance Program, it is correct and is AFFIRMED.

Decision

The August 28, 2015, eligibility determination is AFFIRMED.

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Effective Date of this Decision: January 22, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You and your spouse remain eligible to receive an advance premium tax credit of up to \$490.00 per month and eligible for cost-sharing reductions.

You and your spouse remain not eligible for the APTC Premium Assistance Program in 2015.

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.

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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If You Have Questions about this Decision (Customer Service Resources):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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- By fax: 1-855-900-5557

Summary

This decision does not change your eligibility.

You and your spouse remain eligible to receive an advance premium tax credit of up to \$490.00 per month and eligible for cost-sharing reductions.

You and your spouse remain not eligible for the APTC Premium Assistance Program in 2015.

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.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



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