



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

Notice of Decision

Decision Date: February 24, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005002

[REDACTED]

Dear [REDACTED],

On February 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 27, 2015 eligibility determination and October 4, 2015 preliminary 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 and the NY State of Health 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.

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 and your spouse were eligible to receive up to \$457.00 per month in advance payments of the premium tax credit, effective August 1, 2015?

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

Procedural History

On June 26, 2015, the Marketplace received an application in which you attested to an annual household income of \$46,000.00.

On June 27, 2015, the Marketplace issued a notice of eligibility determination based on the information contained in the June 26, 2015 application. It stated that you and your spouse were eligible for an advance premium tax credit (APTC) of up to \$457.00 per month; eligible for cost-sharing reductions (CSR); and ineligible for Medicaid. This eligibility determination was effective August 1, 2015.

On October 4, 2015, the Marketplace redetermined your eligibility based on the information available to the Marketplace as of that date, including an annual household income of \$46,000.00. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you and your spouse were eligible for up to \$457.00 per month in APTC, as well as CSR. This

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preliminary eligibility determination was as effective August 1, 2015. The record does not contain a written eligibility determination notice formalizing the findings contained in this preliminary determination.

Also on October 23, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the October 4, 2015 preliminary determination.

On October 24, 2015, the Marketplace issued a renewal notice, stating that you and your spouse were eligible for up to \$235.07 per month in APTC, ineligible for CSR, and ineligible for Medicaid.

On November 16, 2015, the Marketplace redetermined your eligibility again, based on the October 4, 2015 application. Based on the information available to the Marketplace at that time, a preliminary determination was issued stating that you and your spouse were eligible for an APTC of up to \$235.07 per month.

On February 1, 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 testified, and your applications reflect, that you either filed or will file both your 2014 and 2015 taxes with a tax filing status of married filing jointly. You will claim your son as a dependent on each tax return.
- 2) You are seeking insurance for yourself and your spouse.
- 3) The applications that were submitted on June 26, 2015 and October 4, 2015 listed annual household income of \$46,000.00, consisting of \$20,000.00 your spouse expected to receive from her employment with [REDACTED] and \$26,000.00 your spouse expected to receive from her employment with [REDACTED]. You testified that this amount was correct, and would be an accurate estimate of your spouse's income during 2016.
- 4) You testified that you have been certified disabled and have been receiving Social Security disability benefits in the amount of approximately \$1,200.00 per month, beginning around January 1, 2016.
- 5) Your applications reflect that you will not be taking any deductions on your on either your 2014 or 2015 tax returns.

- 6) You live in Queens County, New York.
- 7) You testified that you had difficulty in paying for your health insurance since September 2015 and, without additional financial assistance, would not be able to remain insured going forward during 2016.
- 8) You testified that the insurance plans through the Marketplace are unaffordable due, in part, to your monthly expenses, including your housing and utilities. You further testified that after giving effect to these monthly expenses, your disposable income does not exceed \$50.00 per month.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally 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 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 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 \$19,790.00 for a three-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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)).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or 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 were eligible for an APTC of up to \$457.00 per month.

The application that was submitted and or received on June 26, 2015 and October 4, 2015 listed an annual household income of \$46,000.00 and the eligibility determination relied upon that information.

You and your spouse are each in a three-person household. You expect to file your 2015 income taxes as married filing jointly and will claim your son as dependent on that tax return.

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

An annual income of \$46,000.00 is 232.44% of the 2014 FPL for a three-person household. At 232.44% of the FPL, the expected contribution to the cost of the health insurance premium is 7.48% of income, or \$286.73 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 (\$743.50 per month) minus your expected contribution (\$286.73 per month), which equals \$456.77 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your spouse to be eligible for an APTC of up to \$457.00 per month.

The second issue is whether you and your spouse properly found to be eligible 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 \$46,000.00 is 232.44% of the applicable FPL, the Marketplace correctly found you and your spouse to be eligible for CSR.

Since the June 27, 2015 eligibility determination and October 4, 2015 preliminary determination properly stated that, based on the information you provided, you and your spouse were eligible for up to \$457.00 per month in APTC and eligible for CSR, effective August 1, 2015, it was correct at the time, and is AFFIRMED.

However, at the hearing, you testified that in addition to the \$46,000.00 in total income your spouse expects to receive during 2016, you will also be receiving approximately \$14,400.00 (\$1,200.00 x 12 months) in Social Security benefits during 2016. Accordingly, based on the now developed record, your case is RETURNED to the Marketplace to redetermine your eligibility for 2016, based on

an annual household income of \$60,400.00 for a three-person household in Queens County, New York.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015 or 2016, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

Decision

The June 27, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your household eligibility for 2016 based on an annual household income of \$60,400.00 for a three-person household in Queens County, New York.

Effective Date of this Decision: February 24, 2016

How this Decision Affects Your Eligibility

During 2015, you and your spouse were eligible for an APTC of up to \$457.00 per month, and eligible for CSR.

Your case is being returned to the Marketplace to redetermine your eligibility for financial assistance based on an annual household income of \$60,400.00 for a three-person household in Queens County.

You will receive a new eligibility determination notice shortly from the Marketplace.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015 or 2016, you can check the Federal Marketplace website (www.healthcare.gov) for 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.

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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 June 27, 2015 eligibility determination notice is **AFFIRMED**.

The case is **RETURNED** to the Marketplace to redetermine your eligibility for 2016 based on an annual household income of \$60,400.00 for a three-person household in Queens County, New York.

During 2015, you and your spouse were eligible for an APTC of up to \$457.00 per month, and eligible for CSR.

Your case is being returned to the Marketplace to redetermine your eligibility for financial assistance based on an annual household income of \$60,400.00 for a three-person household in Queens County.

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You will receive a new eligibility determination notice shortly from the Marketplace.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015 or 2016, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

