



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

Notice of Decision

Decision Date: January 27, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005040

[REDACTED]

Dear [REDACTED],

On January 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 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 Code of Federal Regulations 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 daughter were eligible to share up to \$485.00 per month in advance premium tax credits, effective December 1, 2015?

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

Procedural History

On October 27, 2015, the Marketplace received your updated application for health insurance. That day, a preliminary eligibility determination was prepared finding you and your daughter eligible to share in advance premium tax credits (APTC) of up to \$485.00 per month and eligible for cost sharing reductions.

That same day, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were seeking more APTC.

On October 28, 2015, the Marketplace issued an eligibility determination notice that was consistent with the October 27, 2015 preliminary determination.

On November 6, 2015, the Marketplace granted your October 27, 2015 request for aid to continue under Medicaid during the appeal process, effective November 1, 2015.

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On January 22, 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) According to your Marketplace application, you expect to file your 2015 taxes with a tax filing status of head of household and will claim your daughter as a dependent on that tax return.
- 2) The application that was submitted on October 27, 2015, listed annual household income of \$29,940.00, consisting of your earnings from your employments. You testified that this amount was correct and you expect it to be comparable in 2016.
- 3) Your application states that you will not be taking any deductions on your 2015 tax return.
- 4) You testified that you paid \$4,633.00 in tuition and fees in 2015 for your daughter's college education and expect to pay a comparable amount in 2016. You expect to take the maximum allowable tuition and fees deduction on your 2015 and 2016 federal tax returns.
- 5) Your application states that you and your daughter live in Bronx 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 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)).

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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 October 27, 2015 updated application, that was the 2014 FPL, which is \$ 15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

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 (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)).

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“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, tuition and fees for a dependent’s higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer’s yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly. This deduction was renewed by Congress in December 2014 and made retroactive to the 2014 tax year and extended to December 31, 2017 (26 USC § 222(e); see IRS Publication 970).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your daughter were eligible for an APTC of up to \$485.00 per month.

The application that was submitted on October 27, 2015, listed an annual household income of \$29,940.00 and the eligibility determination relied upon that information.

You are in a two-person household for purposes of this analysis. This is because you expect to file your 2015 income taxes as head of household and will claim your daughter as a dependent on that tax return.

You reside in Bronx County, where the second lowest cost silver plan available for a primary subscriber and one dependent through the Marketplace costs \$631.98 per month.

An annual income of \$29,940.00 is 190.34% of the 2014 FPL for a two-person household. At 190.34% of the FPL, the expected contribution to the cost of the health insurance premium is 5.89% of income, or \$146.96 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 primary subscriber and one dependent in your county (\$631.98 per month) minus your expected contribution (\$146.96 per month), which equals \$485.02 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your daughter to be eligible for up to \$485.00 per month in APTC.

The second issue is whether you and your daughter 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 \$29,940.00 is 190.34% of the applicable FPL, the Marketplace correctly found you and your daughter to be eligible for cost sharing reductions.

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Since the October 28, 2015 eligibility determination notice properly stated that, based on the information you provided, you and your daughter were eligible for up to \$485.00 per month in APTC and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

However, at the hearing you testified that you paid \$4,633.00 in 2015 toward your daughter's college education, expect to pay a comparable amount in 2016, and expect to claim a tuition and fee deduction in the maximum allowable amount of \$4,000.00, in both 2015 and 2016. Deducting \$4,000.00 from your income of \$29,940.00 would result in a modified adjusted gross income (MAGI) of \$25,940.00 in 2016. Therefore, your case is RETURNED to the Marketplace to redetermine your and your daughter's eligibility for financial assistance in 2016 based on a two-person household in Bronx County with an attested household income of \$25,940.00.

Decision

The October 28, 2015 eligibility determination notice is AFFIRMED

Your case is RETURNED to the Marketplace to redetermine your and your daughter's eligibility for financial assistance in 2016 based on a two-person household in Bronx County with an attested household income of \$25,940.00.

Effective Date of this Decision: January 27, 2016

How this Decision Affects Your Eligibility

You and your daughter were eligible for up to \$485.00 in APTC and eligible for cost-sharing reductions in 2015.

The Marketplace will redetermine your and your daughter's eligibility for financial assistance in 2016 using a two-person household in Bronx County with an attested household income of \$25,940.00. The Marketplace will issue a notice to this effect.

If You Disagree with this Decision (Appeal Rights)

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 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 28, 2015 eligibility determination notice is **AFFIRMED**

Your case is **RETURNED** to the Marketplace to redetermine your and your daughter's eligibility for financial assistance in 2016 based on a two-person household in Bronx County with an attested household income of \$25,940.00.

You and your daughter were eligible for up to \$485.00 in APTC and eligible for cost-sharing reductions in 2015.

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The Marketplace will redetermine your and your daughter's eligibility for financial assistance in 2016 using a two-person household in Bronx County with an attested household income of \$25,940.00. The Marketplace will issue a notice to this effect.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

