



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

Notice of Decision

Decision Date: April 11, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005080



Dear [REDACTED]

On January 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 4, 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 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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Decision

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NY State of Health Account ID: [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 no longer eligible for cost-sharing reductions, effective October 1, 2015?

Did your health insurance plan properly increase you and your spouse's deductible effective October 1, 2015?

Procedural History

On December 12, 2014, the Marketplace issued a notice of eligibility redetermination that, based on your December 10, 2014 application, you and your spouse were eligible to share up to \$651.00 per month in advance premium tax credits (APTC), and eligible for cost sharing reductions, effective January 1, 2015. This redetermination was based on your attested income of \$25,100.00.

On December 13, 2014, the Marketplace issued an enrollment notice confirming that you and your spouse had selected a silver-level qualified health plan, Oscar Edge Silver NS INN Dep25 Free Generic Drugs Two Free PCP Visits Wellness (Oscar Edge Silver) and your coverage could start as early as January 1, 2015.

On September 4, 2015, the Marketplace issued a notice of eligibility redetermination that, based on your updated income attestation, you and your spouse were eligible to purchase a qualified health plan at full cost through New York State of Health. The notice stated that you and your spouse did not qualify to receive a tax credit or cost-sharing reductions because the income provided exceeded the income thresholds.

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That same day, the Marketplace issued an enrollment notice confirming that you and your spouse were enrolled in an Oscar Edge Silver plan and had a monthly premium responsibility of \$795.47. The notice stated that the enrollment was effective October 1, 2015.

On October 15, 2015 you contacted the Marketplace and filed a complaint ([REDACTED]) because the health plan had taken away your financial assistance and increased the deductible in your policy.

On November 3, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of eligibility redetermination as it related to the change in financial assistance and your health plan changing your deductible effective October 1, 2015.

On January 12, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up until January 16, 2016 to allow you to submit (1) documentation to show the changes in your health insurance policy and (2) outstanding medical bills.

On January 13, 2016, the Appeals Unit received a four-page fax from you. This fax was marked as "Appellant Exhibit A" and made part of the record.

On the same day, the Appeals Unit received a five-page fax from your spouse. This fax was marked as "Appellant Exhibit B" and made part of the record.

The record is now complete and closed.

Findings of Fact

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

- 1) According to your Marketplace account, you expect to file your 2015 federal income tax return, with a tax filing status of married filing jointly, and will not claim any dependents on that tax return.
- 2) The eligibility determination that was made on December 12, 2014, was based on an expected 2015 household income of \$25,100.00. You and your spouse were determined eligible to share up to \$651.00 per month in advance premium tax credits and eligible for cost sharing reductions, effective January 1, 2015.
- 3) According to your Marketplace account, you and your spouse were enrolled in Oscar Silver Edge effective January 1, 2015.
- 4) You currently reside in New York County, New York.
- 5) Your Marketplace application was updated on September 1, 2015 and your annual household income was changed to \$133,100.00.

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- 6) On September 4, 2015, the Marketplace issued a notice of eligibility redetermination that, based on your updated income attestation, you and your spouse were eligible to purchase a qualified health plan at full cost through New York State of Health. The notice stated that you and your spouse did not qualify to receive a tax credit or cost-sharing reductions because the income provided exceeded the income thresholds.
- 7) You testified that you updated your application on September 1, 2015 to reflect an employment position that your spouse began in April 2015.
- 8) You testified that you received two copies of your Oscar insurance policy. The first policy was received at the beginning of the policy, effective January 1, 2015. The second policy was received after your Marketplace account was updated in September 2015, which was effective October 1, 2015 (Appellant Exhibit A p. 1).
- 9) The first Summary of Benefits and Coverage of your Oscar Edge Silver Plan states that the overall deductible is "\$350 person/\$700 family" (Appellant Exhibit A p. 3).
- 10) The second Summary of Benefits and Coverage of your Oscar Edge Silver Plan states that the overall deductible is "\$5000 person/\$10000 family" (Appellant Exhibit A p. 4).
- 11) You testified that you and your spouse had already met the deductible amount when your policy was change effective October 1, 2015.
- 12) You testified that you are seeking to be reimbursed as a result of your Oscar Edge Silver health plan being changed effective October 1, 2015.
- 13) On January 13, 2016 your spouse faxed outstanding medical to the Appeals Unit in the amount of:
 - (a) \$1,219.68 from [REDACTED]
 - (b) \$41.75;
 - (c) \$176.89 from [REDACTED] (Appellant Exhibit B pgs. 2-5).

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

Applicable Law and Regulations

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

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expected to have an annual household income that does not exceed 250% of the FPL for 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)).

In an analysis of CSR 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 applications, that was the 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

Levels of Cost-Sharing Reductions

The Marketplace directs insurers to offer three levels of silver-level qualified health plans, in addition to a full-cost plan, which provide varying levels of financial assistance, called “cost-sharing reductions” (CSR), using the following categories:

- (1) Those individuals with an annual household income that is at least 100% but less than or equal to 150 % of the FPL,
- (2) Those individuals with an annual household income that is greater than 150% but less than or equal to 200% of the FPL, and
- (3) Those individuals with an annual household income that is greater than 200 but less than or equal to 250% of the FPL (see 45 CFR § 155.305(g)(2), 45 CFR § 155.305(g)(3)).

Each category listed above gives a different level of CSR, so an individual would receive different amounts of financial assistance based on the level of income (see 45 CFR § 156.420). These subsidies reduce the deductibles, copayments, coinsurance, and other out-of-pocket expenses that people eligible for CSR pay when they use benefits covered by their health plan.

Redetermination of Cost-Sharing Reductions

When an eligibility redetermination results in a change in cost-sharing reductions, the Marketplace must determine an individual eligible for the category that corresponds to their expected annual household income for the benefit year (45 CFR § 155.330(g)(2)).

When a redetermination is issued as a result of a change in an applicant’s information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330(f)(1)(i)).

Mid-benefit Year Change in Level of Cost-Sharing Reductions

If an individual’s eligibility for CSR changes in the middle of a benefit year and that individual stays in the same qualified health plan (QHP), the health plan must ensure

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that any cost sharing already paid by the individual that year is taken into account when the level of future cost sharing that year is calculated (45 CFR § 156.425(b)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse were not eligible for cost-sharing reductions effective October 1, 2015.

You testified that you expect to file your 2015 income taxes with the tax status of married filing jointly, with your spouse, and will claim no dependents. Therefore, you have a two-person tax household.

The application that was submitted on December 10, 2014 listed an annual household income of \$25,100.00, and the eligibility determination relied upon that information.

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 \$25,100.00 is 159.57% of the applicable FPL, the Marketplace found you to be eligible for cost-sharing reductions.

On September 1, 2015, your Marketplace account was updated. Your 2015 expected household income was changed from \$25,100.00 to \$133,100.00.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for health insurance if the Marketplace verifies updated information by the enrollee. The Marketplace must redetermine the enrollee's eligibility and notify the enrollee of their eligibility for health insurance and financial assistance.

On September 4, 2015, the Marketplace issued a notice of eligibility redetermination that, based on your updated income attestation, you and your spouse were eligible to purchase a qualified health plan at full cost through New York State of Health, effective October 1, 2015. The notice stated that you and your spouse did not qualify to receive a tax credit or cost-sharing reductions because the income provided exceeded the income thresholds.

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change.

Since a household income of \$133,100.00 is 846.15% of the applicable FPL, the Marketplace correctly found you to be not eligible for cost-sharing reductions, effective October 1, 2015.

The second issue is whether your health plan properly increased you and your spouse's deductible effective October 1, 2015.

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Since you and your spouse were redetermined to be at 846.15% of the 2014 FPL for a two-person household and you were enrolled in a couple's silver-level qualified health plan, you were determined not eligible for the CSR, as provided by 45 CFR § 155.305(g)(1).

It is not clear if your health plan took into account the payments you had already made in the first part of 2015 when it calculated your remaining deductible for 2015.

Therefore, this matter is RETURNED to the Marketplace to confirm that your plan complies with the requirements for this level of CSR eligibility and to ensure that your health plan properly calculated your benefits after your eligibility for CSR changed mid-year.

Decision

The Marketplace properly determined that you and your spouse were no longer eligible for cost-sharing reductions, effective October 1, 2015.

Your case is RETURNED to the Marketplace to confirm that your plan complies with the requirements for this level of CSR eligibility and to ensure that your health plan properly calculated your benefits after your eligibility for CSR changed mid-year.

Effective Date of this Decision: April 11, 2016

How this Decision Affects Your Eligibility

The Marketplace properly determined that you and your spouse were no longer eligible for cost-sharing reductions, effective October 1, 2015.

Your case is being returned to the Marketplace to ensure that your plan complied with the requirements of cost-sharing reductions and to ensure that your health plan properly calculated your benefits after your eligibility for CSR changed mid-year.

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.

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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:
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- By fax: 1-855-900-5557

Summary

The Marketplace properly determined that you and your spouse were no longer eligible for cost-sharing reductions, effective October 1, 2015.

Your case is being returned to the Marketplace to ensure that your plan complied with the requirements of cost-sharing reductions and to ensure that your health plan properly calculated your benefits after your eligibility for CSR changed mid-year.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

