



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: AP000000005232

[REDACTED]

Dear [REDACTED]

On January 27, 2016, your spouse, acting as your Authorized Representative, appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s November 23, 2015 eligibility determination notice.

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 Account ID 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 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 were eligible to receive \$0.00 per month in advance payments of the premium tax credit, effective January 1, 2016?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

Procedural History

On November 17, 2015, the Marketplace received your completed application for health insurance in which you attested to an annual household income of \$55,033.00 for the upcoming year. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible to receive \$0.00 per month in advance payments of the premium tax credit (APTC) based on annual income of "\$55,825.00" (*sic*), effective January 1, 2016.

Also on November 17, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination, insofar as you were found eligible for APTC no greater than \$0.00.

On November 23, 2015, the Marketplace issued an eligibility determination based on your November 17, 2015 application. It stated that you were eligible to

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receive \$0.00 per month in APTC, and ineligible for CSR and Medicaid, effective January 1, 2016.

On January 27, 2016, your spouse, appearing as your Authorized Representative, had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open because the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) a copy of your 2014 tax return, and (2) a copy of your spouse's Notice of Award issued by the Social Security Administration reflecting your spouse's Social Security monthly benefits during 2016, or other reasonably acceptable documentation. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On February 9, 2016, you provided a copy of the first two pages of your 2014 tax return to the Appeals Unit via facsimile. This document also referenced your spouse's total Social Security benefits received during 2014.

Accordingly, the record was closed on February 9, 2016.

Findings of Fact

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

- 1) You testified that you wanted your spouse to act as your Authorized Representative during the hearing.
- 2) Your spouse testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly. You will claim your granddaughter as your dependent on that tax return.
- 3) You are seeking insurance only for yourself.
- 4) The application that was submitted on November 17, 2015 listed annual household income of \$55,825.00, consisting of (1) \$3,201.25 in monthly income you expected to receive from your position at [REDACTED] and (2) \$1,450.83 in monthly Social Security benefits your spouse expects to receive during 2015. Your spouse testified that the expected annual income of \$55,825.00 was reasonably accurate.
- 5) Your application states that you will not be taking any deductions on your 2015 tax return. However, you spouse testified that you actually anticipated taking several deductions on your upcoming tax return, including a deduction for mortgage interest. Your spouse further testified

that the amount of income you actually receive is far less than what is referenced in your tax return.

- 6) Your application states that you live in Monroe County.
- 7) Your spouse testified that you were seeking a higher tax credit in order to reduce the premium amount due for your health insurance. Your spouse further testified that without an increased eligibility for a tax credit, health plans available through the Marketplace are unaffordable.
- 8) On February 9, 2016, at the direction of the Hearing Officer, you provided the Appeals Unit via facsimile a copy of the first two pages of your 2014 tax return, which reflected an adjusted gross income of \$47,856.00 (line 36). This amount included Social Security benefits your spouse received totaling \$17,411.00 (line 20a). In addition, your taxable income reflected in this document was \$22,406.00 (line 43).

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 2016 is set by federal law at 2.03% to 9.66% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

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 2015 FPL, which is \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

For annual household income in the range of at least 250% but less than 300% of the 2015 FPL, the expected contribution is between 8.18% and 9.66% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

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)). Living expenses, such as rent and utilities are not allowable deductions in computing adjusted gross income, nor are deductions that occur after your adjusted gross income is calculated on your tax return (e.g., after line 37 on federal tax form 1040).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of \$0.00 per month.

Your spouse testified that \$55,825.00 was a reasonable estimate of your 2015 annual household income, with no anticipated deductions, and the eligibility determination relied upon that information.

You are in a three-person household. You expect to file your 2016 income taxes as married filing jointly and will claim your granddaughter as your sole dependent on that tax return.

You reside in Monroe County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$368.59 per month.

An annual income of \$55,825.00 is 277.87% of the 2015 FPL for a three-person household. At 277.87% of the FPL, the expected contribution to the cost of the health insurance premium is 9.01% of income, or \$419.15 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 an individual in your county (\$368.59 per month) minus your expected contribution (\$419.15 per month). Since your expected contribution to the cost of the health insurance premium exceeded the second lowest cost silver plan available for an individual, the Marketplace correctly determined you to be eligible for an APTC of \$0.00 per month.

The second issue is whether you were properly found ineligible 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 \$55,825.00 is 277.87% of the applicable FPL, the Marketplace correctly found you to be ineligible for CSR.

Since the November 23, 2015 eligibility determination, and the November 17, 2015 preliminary determination upon which it is based, properly stated that, based on the information you provided, you were eligible for \$0.00 per month in APTC, ineligible for CSR, and ineligible for Medicaid, they are each correct and are AFFIRMED.

While you testified that your taxable income is much lower than your gross income, your eligibility for financial assistance is based on your modified adjusted gross income (MAGI). You provided a copy of your 2014 tax return to show that your taxable income was much lower since you had taken and expect to take in the future a deduction for interest you pay on your mortgage. However, since

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your adjusted gross income was reflected as \$47,856.00 on line 37 of that document. When that amount is increased by the non-taxable portion of the Social Security benefits, your total expected household income for the purposes of eligibility through the Marketplace, based on your 2014 tax return, would be \$56,252.00, which is approximately the income used by the Marketplace in approximating your eligibility for APTC. There is no provision in law for this amount to be reduced by the interest you pay on your mortgage.

Decision

The November 23, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: April 11, 2016

How this Decision Affects Your Eligibility

Your eligibility has not changed.

You are eligible for an APTC of \$0.00 per month and ineligible for CSR, effective January 1, 2016.

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 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 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):

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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 23, 2015 eligibility determination and November 17, 2015 preliminary eligibility determination are AFFIRMED.

Your eligibility has not changed.

You are eligible for an APTC of \$0.00 per month and ineligible for CSR, effective January 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

