



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

Notice of Decision

Decision Date: April 12, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005554

[REDACTED]

Dear [REDACTED]

On February 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 22, 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 and the 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).

This page intentionally left blank.



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

Decision

Decision Date: April 12, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005554



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 up to \$257.00 per month in advance payments of the premium tax credit, effective January 1, 2016?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions, effective January 1, 2016?

Did the Marketplace properly determine that you were not eligible to enroll in the Essential Plan?

Procedural History

On November 16, 2015, the Marketplace received your completed application for health insurance.

On November 22, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the November 16, 2015 application. The notice stated that you were eligible to receive an advance premium tax credit (APTC) of up to \$257.00 per month and, provided you selected a silver-level plan, eligible for cost-sharing reductions (CSR), effective January 1, 2016.

On December 15, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the November 22, 2015 eligibility determination notice insofar as you were seeking more financial assistance.

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).

On February 10, 2016, the Marketplace received a letter issued by Oscar Insurance Corporation (Oscar), dated December 21, 2015, reflecting a summary of the claims you made to the insurance carrier between July 2014 and June 2015, and the corresponding co-pays you were responsible for during that period of time.

On February 24, 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 that you expected to file your 2016 taxes with a tax filing status of single. You will not claim any dependents on that tax return.
- 2) You are seeking insurance for only yourself.
- 3) The application that was submitted on November 16, 2015 listed annual household income of \$23,760.00, consisting solely of \$1,980.00 in Social Security benefits you receive per month. You testified that this amount was correct.
- 4) You testified, and your application reflects, that you will not be taking any deductions on your 2016 tax return.
- 5) You live in Nassau County, New York.
- 6) You testified that the plan you are currently enrolled in is unaffordable since the co-pays you are responsible for typically exceed the amount of the month premium itself.
- 7) You testified that you are seeking a greater amount of financial assistance, which may include a greater amount of tax credits or eligibility to enroll in an Essential Plan through the Marketplace.

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 \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

For annual household income in the range of at least 200% but less than 300% of the 2015 FPL, the expected contribution is between 6.41% and 8.18% 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

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).

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)).

De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

Marketplace Eligibility Determinations

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person’s eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

The Marketplace is required to provide “timely written notice to an applicant of any eligibility determination” made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)).

An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

Essential Plan

The Marketplace must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable FPL or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL for the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

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).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$257.00 per month.

The application that was submitted on November 16, 2015 listed an annual household income of \$23,760.00, which consisted solely of your Social Security benefits, and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2016 income taxes as single and will claim not dependents on that tax return.

You reside in Nassau County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$385.22 per month.

An annual income of \$23,760.00 is 201.87% of the 2015 FPL for a one-person household. At 201.87% of the FPL, the expected contribution to the cost of the health insurance premium is 6.48% of income, or \$128.30 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 (\$385.22 per month) minus your expected contribution (\$128.30 per month), which equals \$256.92 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible an advance premium tax credit (APTC) of up to \$257.00 per month.

The second issue is whether you were properly found 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 \$23,760.00 is 201.87% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

You submitted an application on November 16, 2015 and the Marketplace issued an eligibility determination notice in connection with that application on November 22, 2015. While the Marketplace's notice issued a written determination on your eligibility for APTC and CSR, it did not make a determination on your eligibility for the Essential Plan.

Although the Marketplace did not issue a written notice of eligibility determination with respect to your eligibility for the Essential Plan, this does not prevent the Appeals Unit from reaching the merits of your case on your December 15, 2015 appeal request on that specific issue. Under 45 CFR § 155.505(b), you are as entitled to appeal a Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination.

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).

Also, since the Appeals Unit reviews of Marketplace determinations on a de novo basis, no deference would have been granted to that written determination had it been issued before you filed your appeal.

The third issue is whether the Marketplace properly determined that you were not eligible for the Essential Plan.

The Essential Plan is provided through the Marketplace to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since \$23,760.00 is 201.87% of the 2015 FPL, the Marketplace properly found you to be ineligible for the Essential Plan.

Since the November 22, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$257.00 per month, eligible for CSR, and not eligible for the Essential Plan, it is correct and is AFFIRMED.

Decision

The November 22, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: April 12, 2016

How this Decision Affects Your Eligibility

Your eligibility is unchanged as a result of this Decision.

You remain eligible for an APTC of up to \$257.00 per month and, provided you select a silver-level plan, CSR.

You are ineligible for the Essential Plan.

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

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).

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.

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 November 22, 2015 eligibility determination is AFFIRMED.

Your eligibility is unchanged as a result of this Decision.

You remain eligible for an APTC of up to \$257.00 per month and, provided you select a silver-level plan, CSR.

You are ineligible for the Essential Plan.

Legal Authority

We are sending you this notice in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

