



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

Notice of Decision

Decision Date: February 29, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005563

[REDACTED]

Dear [REDACTED],

On February 24, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 16, 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 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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that your spouse and two children were eligible to receive an advance premium tax credit of up to \$240.00 per month, effective January 1, 2016?

Did the Marketplace properly determine that your spouse and two children were not eligible for cost-sharing reductions?

Procedural History

On December 15, 2015, the Marketplace received your completed application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your spouse and two children were eligible to receive an advance premium tax credit (APTC) of up to \$240.00 per month, effective January 1, 2016. It did not make a decision on your eligibility for either cost-sharing reductions (CRS) or Medicaid.

Also on December 15, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as your household was found eligible for an APTC no greater than \$240.00 per month.

On December 16, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the December 15, 2015 application, stating that your spouse and two children were found eligible for an APTC of up to

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\$240.00 per month, but ineligible for CSR or Medicaid. This eligibility determination was effective January 1, 2016

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 married filing jointly. You will claim your two children as dependents on that tax return.
- 2) You testified, and your application reflects, that you were not seeking insurance for yourself, but rather for your spouse and two children.
- 3) The application that was submitted on December 15, 2015 listed annual household income of \$60,762.00, consisting of (1) \$38,000.00 you expect to earn from your employment with [REDACTED] (2) \$6,650.00 your spouse expects to receive from [REDACTED], (3) \$1,801.00 per month you expect to receive in Social Security benefits, (4) a \$2,500.00 deduction you expect to take relating to student loan interest you will pay during 2016 for both of your children and (5) a \$3,000.00 deduction you expect to take from a capital loss you previously incurred in connection with stock trading activities. You testified that this amount was correct when you submitted your application.
- 4) You testified that since you submitted your application, your spouse now expects to receive \$3,800.00 from [REDACTED] during 2016, and that you have been receiving approximately \$1,830.00 per month in Social Security benefits during 2016.
- 5) You live in Suffolk County, New York.
- 6) You testified that you were seeking a greater amount of APTC per month since your adjusted gross income from 2015 was approximately \$47,818.00, rather than the \$60,762.00 listed in your application.

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 \$24,250.00 for a four-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).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may

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get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that your spouse and two children were eligible for an advance premium tax credit (APTC) of up to \$240.00 per month.

The application that was submitted on December 15, 2015 listed an annual household income of \$60,762.00, which included (1) \$38,000.00 you expect to earn from your employment with [REDACTED], (2) \$6,650.00 your spouse expects to receive from [REDACTED], (3) \$21,612.00 (\$1,801.00 X 12 months) you expect to receive in Social Security benefits, (4) a \$2,500.00 deduction you expect to take relating to student loan interest you will pay for both of your children and (5) a \$3,000.00 deduction you expect to take from a capital loss you previously incurred in connection with stock trading activities.

The eligibility determination relied upon that information.

You are in a four-person household. You expect to file your 2016 income taxes as married filing jointly and will claim your two children as dependents on that tax return.

You reside in Suffolk County, where the second lowest cost silver plan available for a primary subscriber and two dependents through the Marketplace costs \$654.68 per month.

An annual income of \$60,762.00 is 250.56% of the 2015 FPL for a four-person household. At 250.56% of the FPL, the expected contribution to the cost of the health insurance premium is 8.18% of income, or \$414.19 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

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subscriber and two dependents in your county (\$654.68 per month) minus your expected contribution (\$414.19 per month), which equals \$240.49 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you spouse and two children to be eligible for an APTC of up to \$240.00 per month.

The second issue is whether your spouse and two children were properly found to be 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 \$60,762.00 is 250.56% of the applicable FPL, the Marketplace correctly found you to be ineligible for CSR.

Since the December 16, 2016 eligibility determination properly stated that, based on the information you provided, your spouse and two children were eligible for an APTC of up to \$240.00 per month and ineligible for CSR, it is correct and is **AFFIRMED**.

You credibly testified during the hearing, however, that your spouse now expects to earn only \$3,800.00 from [REDACTED] during 2016, and you expect to receive \$21,960.00 (\$1,830.00 X 12 months) in Social Security benefits during 2016. You further testified that expected income and deductions, other than your spouse's income and your Social Security benefits, would remain consistent with what was provided in your December 15, 2015 application. Therefore, the credible evidence of record reflects that you now expect to have an annual household income of \$58,260.00 during 2016.

Since the record has now been developed with additional and more reliable information on your expected 2016 income, the case should be **RETURNED** to the Marketplace for a new eligibility determination for a four-person household in Suffolk County with an expected household income during 2016 of \$58,260.00.

Decision

The December 16, 2015 eligibility determination notice is **AFFIRMED**.

The case is **RETURNED** to the Marketplace for a new eligibility determination for a four-person household in Suffolk County with an expected household income during 2016 of \$58,260.00.

Effective Date of this Decision: February 29, 2016

How this Decision Affects Your Eligibility

This decision does not change your household's eligibility but it does return your case to the Marketplace for further determination.

You will be receiving a new eligibility determination notice shortly.

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.

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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Summary

The December 16, 2015 eligibility determination notice is AFFIRMED.

The case is RETURNED to the Marketplace for a new eligibility determination for a four-person household in Suffolk County with an expected household income during 2016 of \$58,260.00.

This decision does not change your household's eligibility but it does return your case to the Marketplace for further determination.

You will be receiving a new eligibility determination notice shortly.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

