



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: AP000000005722

[REDACTED]

Dear [REDACTED],

On March 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 24, 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 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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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were not eligible to receive advance payments of the premium tax credit (APTC) and cost-sharing reductions, effective February 1, 2016?

Procedural History

On December 23, 2015 the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were conditionally eligible to purchase a qualified health plan at full cost.

Also on December 23, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal insofar as you were not eligible to receive financial assistance to help pay for the cost of your health insurance.

On December 24, 2015, an eligibility determination notice was issued finding you newly conditionally eligible to purchase a qualified health plan at full cost effective February 1, 2016. You were asked to provide documentation confirming your citizenship status by March 22, 2016. The notice further stated that you were not eligible to receive APTC because the primary tax filers in your household are married but not filing taxes jointly. You were not eligible for cost-sharing reductions because you were not eligible for APTC.

On March 9, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and

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kept open 15 days for you to provide documentation confirming your immigration status by March 24, 2016. The NY State of Health Appeals unit received a two page fax consisting of your immigration documentation and it was incorporated into the record as Appellant's Exhibit 1. The record is now closed.

Findings of Fact

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

- 1) In the application that was filed on December 23, 2015 you indicated that you were married but that you would be filing your taxes with a tax filing status of Single.
- 2) You testified that you are currently married but that you have been living away from your spouse and children.
- 3) You testified you will not be filing a joint return with your spouse.
- 4) You provided immigration documentation in the form of an Employment Authorization Card (██████) with an expiration date of September 21, 2016 (Appellant's Exhibit 1).
- 5) Your application states that you live in Orange County.

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

Applicable Law and Regulations

Advance Payments of the 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)).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
 - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
 - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703).

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)).

Citizenship and Immigration Status

To enroll in a qualified health plan through the Marketplace, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

The Marketplace must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

Legal Analysis

The issue is whether the Marketplace properly determined that you are not eligible for APTC and cost-sharing reductions.

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In the eligibility determination notice issued on December 24, 2015, the Marketplace denied an APTC to you because you indicated that you were married but did not plan to file a joint federal income tax return.

To qualify for APTC, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the information in the record and your testimony at the hearing, you are still married to your spouse and have not obtained a decree of divorce or of separate maintenance. Also, you confirmed that you do not plan to file a joint federal income tax return with your spouse for the 2016 tax year.

There is an exception, as noted above, that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for APTC. However, the record does not support a finding that you meet the necessary requirements for that exception.

Therefore, the Marketplace was correct when it found that you were not eligible for APTC due to your tax filing status.

Cost-sharing reductions are available only to those who meet the requirements for APTC. Since you did not qualify for APTC, the Marketplace correctly found that you were not eligible for cost-sharing reductions.

Since the December 24, 2015 eligibility determination properly stated that, based on the information you provided, you were newly conditionally eligible to purchase a qualified health plan at full cost and not eligible for APTC and cost-sharing reductions, it is correct and is AFFIRMED.

Decision

The December 24, 2015, eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to verify your immigration documentation.

Effective Date of this Decision: April 11, 2016

How this Decision Affects Your Eligibility

You remain conditionally eligible to purchase a qualified health plan at full cost effective February 1, 2016.

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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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 24, 2015, eligibility determination notice is **AFFIRMED**.

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Your case is RETURNED to the Marketplace to verify your immigration documentation.

You remain conditionally eligible to purchase a qualified health plan at full cost effective February 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:

