



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

Notice of Decision

Decision Date: March 28, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005902

[REDACTED]

Dear [REDACTED],

On March 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 1, 2016 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 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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Decision Date: March 28, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005902

[REDACTED]

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 an advance premium tax credit of up to \$223.00 per month, effective January 1, 2016?

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

Procedural History

On December 31, 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 you were eligible for an advance premium tax credit (APTC) of up to \$223.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). It did not make a determination on your eligibility for Medicaid. This preliminary eligibility determination was effective February 1, 2016.

Also on December 31, 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 an APTC no greater than \$223.00 per month, thereby making insurance through the Marketplace unaffordable to you.

On January 1, 2016, the Marketplace issued an eligibility determination notice based on the information contained in the December 31, 2015 application, stating

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that you were eligible for an APTC of up to \$223.00 per month; eligible for CSR, provided you selected a silver-level plan; and ineligible for Medicaid. This eligible determination was effective February 1, 2016.

On March 28, 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 expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You are seeking insurance for only yourself.
- 3) The application that was submitted on December 31, 2015 listed annual household income of \$25,200.00, consisting of \$1,000.00 you earn from your employment with [REDACTED], once every two weeks, and \$800.00 you expect to claim as a deduction on your 2016 tax return relating to educator expenses. You testified that you provided these amounts in your application.
- 4) You testified, however, that your anticipated annual income you expect to receive from [REDACTED], during 2016 is closer to \$40,000.00. You clarified during the hearing that the approximate income you referenced in your December 31, 2015 application is your net income after giving effect to state and federal deductions.
- 5) You testified that you still anticipate claiming a total of \$800.00 in tax deductions when you file your 2016 taxes. You further testified that this deduction is not related to educator expenses, but rather tuition and fees you will be incurring in connection with your enrollment in an MBA preparatory course.
- 6) You live in Queens County, New York.
- 7) You testified that even with your eligibility for an APTC of up to \$223.00 per month, you are unable to afford health insurance through the Marketplace due to your necessary monthly expenses, which include rent, food and other essentials.

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

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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 250% 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).

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

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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 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 you were eligible for an advance premium tax credit (APTC) of up to \$223.00 per month.

The application that was submitted on December 31, 2015 listed an annual household income of \$25,200.00 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 no dependents on that tax return.

You reside in Queens County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$368.26 per month.

An annual income of \$25,200.00 is 214.10% of the 2015 FPL for a one-person household. At 214.10% of the FPL, the expected contribution to the cost of the health insurance premium is 6.41% of income, or \$145.09 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 (\$368.26 per month) minus your expected contribution (\$145.09 per month), which equals \$223.17 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for an APTC of up to \$223.00 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 \$25,200.00 is 214.10% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

However, you testified during the hearing that you expect to receive \$40,000.00 in gross income during 2016, rather than the \$26,000.00 you referenced in your December 31, 2015 application since the latter figure is based on your income after giving effect to applicable state and federal taxes. You also testified that you anticipate taking a total deduction of \$800.00 on your 2016 tax return relating to tuition and fees you expect to incur for your enrollment in an MBA preparatory classes.

Accordingly, your case is RETURNED to the Marketplace to redetermine your eligibility based on an annual household income of \$39,200.00 for a one-person household in Queens County.

Decision

The January 1, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your eligibility based on an annual household income of \$39,200.00 for a one-person household in Queens County.

Effective Date of this Decision: March 28, 2016

How this Decision Affects Your Eligibility

You temporarily remain eligible for up to \$223.00 per month in APTC, and if you enrolled in a silver-level plan, eligible for CSR.

You will receive a new eligibility determination shortly, which will be based on an annual household income of \$39,200.00 for a one-person household in Queens County.

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.

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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 January 1, 2016 eligibility determination notice is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace to redetermine your eligibility based on an annual household income of \$39,200.00 for a one-person household in Queens County.

You temporarily remain eligible for up to \$223.00 per month in APTC, and if you enrolled in a silver-level plan, eligible for CSR.

You will receive a new eligibility determination shortly, which will be based on an annual household income of \$39,200.00 for a one-person household in Queens County.

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A Copy of this Decision Has Been Provided To:

