



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: AP000000006054

[REDACTED]

Dear [REDACTED],

On April 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 20, 2015 eligibility redetermination.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulations (CFR) 45 CFR § 155.545(b).

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 on December 20, 2015 that you were eligible to purchase a qualified health plan at full cost effective January 1, 2016?

Should the amount of the advance payment of the premium tax credits stated in the January 8, 2016 eligibility redetermination notice be applied to the January 2016 premium for your health plan coverage that month?

Procedural History

On October 24, 2015, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for 2016. The notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualified for continuing financial help in paying for your health coverage in 2016. You were directed to update the information in your NY State of Health account by December 15, 2015 and informed that, if you missed this deadline, the financial assistance you were currently receiving might end.

No updates were made to your active Marketplace account before December 15, 2015.

On December 21, 2015, the Marketplace issued an eligibility redetermination notice that stated you were eligible to purchase a qualified health plan, but only at full cost to you, effective January 1, 2016. The notice further stated that you

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were not eligible to receive advance payments of the premium tax credit (APTC) because “you did not respond to the renewal notice and did not complete your renewal within the required timeframe. As a result, you no longer qualify to receive financial assistance to help pay for your health coverage.” The notice also stated that you were not eligible for cost-sharing reductions because you were ineligible to receive APTC, and were not eligible for Medicaid because your household income was in excess of that allowed by that program.

On December 22, 2015, the Marketplace issued an enrollment notice confirming that you were enrolled in a silver-level qualified health plan (QHP) with a monthly premium responsibility at the full cost of premium of \$516.11 and an enrollment start date of January 1, 2016.

On January 7, 2016, information in your Marketplace account was updated and a preliminary eligibility redetermination was made finding you eligible to receive up to \$227.00 per month in APTC and cost-sharing reductions as of February 1, 2016.

Also on January 7, 2016, you spoke to the Marketplace’s Account Review Unit and appealed the eligibility determination insofar as it made your financial assistance eligibility effective as of February 1, 2016, and not January 1, 2016.

On January 8, 2016, the Marketplace issued an eligibility determination notice that stated you were newly eligible to receive up to \$227.00 per month in APTC, and newly eligible to receive cost-sharing reductions if you enrolled in a silver level health plan, effective February 1, 2016.

Also on January 8, 2016, the Marketplace issued an enrollment notice confirming your enrollment in the silver-level QHP you were already enrolled in with a monthly premium responsibility of \$289.11 per month and a plan enrollment start date of February 1, 2016. The notice stated that “[y]our advance premium tax credit will be applied to your monthly premium effective Feb 1, 2016.”

On April 6, 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) According to your Marketplace account, you were enrolled in a silver-level QHP and received APTC throughout 2015.

- 2) You testified that you attempted to renew online and ran into technical difficulties accessing your Marketplace account, so you created a new account.
- 3) You testified that you contacted the Marketplace the last week of October 2015 or the first week of November 2015 and it was explained to you that the problem was that you had two active accounts and one needed to be deleted, which the representative told you would be done. You testified that you confirmed your income information and the Marketplace representative stated your Marketplace account was updated and you were all set.
- 4) You testified that you received a bill from your insurance plan for January 2016, and it stated you had to pay the full premium of \$516.11.
- 5) You testified that this prompted you to again call the Marketplace on several occasions in the first week of January 2016 when you learned that the duplicate account you had created had not been inactivated and the updated income information you provided in October and/or November 2015 was not in your current account.
- 6) You also testified that a Marketplace representative told you that if you cancelled your QHP for the month of January 2016 there was no guarantee you could be re-instated in the same plan.
- 7) You testified that you did not want to go without insurance, so you paid the full premium for January 2016, and are seeking a credit for the APTC amount that was not applied that month.
- 8) According to your Marketplace accounts, your current Marketplace account was updated on January 4, 5, and 7, 2016, and your duplicate Marketplace account was inactivated on January 16, 2016.
- 9) You testified that you plan on filing your 2016 federal tax return with a tax filing status of single and will not be claiming any dependents on that tax return.
- 10) According to your Marketplace account, you attested to an annual household income of \$24,859.00. You testified that this amount is correct.
- 11) According to your Marketplace account, you reside in Kings County, New York.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine that its policy will be that any change made after the 15th of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has elected to do so (13 OHIP/ADM-03).

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, the Marketplace must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the benefit year (45 CFR § 155.330(g)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible to enroll in a qualified health plan at full cost effective January 1, 2016.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the information by which the Marketplace will use to determine an individual's eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 24, 2015, the Marketplace issued an annual eligibility redetermination notice in your case. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualified for financial help paying for your health coverage for 2016. You were asked to update the information in your NY State of Health account by December 15, 2015 or the financial assistance you were receiving might end. The record reflects that you received APTC and cost-sharing reductions in 2015.

You testified that you had received the notice informing you that you needed to update your Marketplace information or risk losing your financial assistance. The record reflects that you created a duplicate account after having difficulty logging onto your existing Marketplace account. You testified that you conversed with a Marketplace representatives in October and/or November 2015, and were told your duplicate account would be deleted, your income information was updated, and you were all set. However, as of December 20, 2015, the updated information was not listed in your active Marketplace account.

By December 15, 2015, your Marketplace account did not contain the updated information you provided in either October or November 2015. Therefore, the Marketplace was required to use the information that was contained in the

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October 24, 2015 notice in order to determine your eligibility for coverage beginning January 1, 2016. Since your income could not be verified, on December 21, 2015, the Marketplace issued a notice that stated you were newly eligible to purchase a qualified health plan at full cost effective January 1, 2016. You were not eligible to receive APTC because you had not updated your application for renewal and income data was not available. This finding was necessitated by the federal regulations noted above and, therefore, the Marketplace's December 21, 2015 eligibility determination is AFFIRMED.

Notwithstanding it bears noting that the Marketplace's inaction resulted in your updated information not being transferred to your active Marketplace account when you credibly testified that it was timely provided in October or November 2015 and before the deadline.

This leads to the second issue under review of whether or not the APTC amount listed in the January 8, 2016 eligibility redetermination notice should be applied to the premium amount for January 2016. We start by noting APTC generally cannot be applied retroactively.

On December 22, 2015, the Marketplace issued an enrollment notice that stated you enrolled in the QHP you had selected with a premium responsibility of \$516.11. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

You testified that you paid \$516.11 to your QHP to cover the premium responsibility for the month of January 2016. By paying your premium, your coverage through your QHP was effective as of January 1, 2016.

The record reflects that on January 4, 5, and 7, 2016, you again updated the information in your Marketplace account. This resulted in a January 8, 2016 eligibility redetermination notice that stated you were newly eligible to receive up to \$227.00 in APTC, and cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective February 1, 2016.

When an individual changes information in their application before the 15th of any month, the Marketplace must make the redetermination that results from that change effective the first day of the following month. Therefore, the Marketplace's January 8, 2016 eligibility determination was correct in finding that you were not eligible for APTC in January 2016, strictly adhering to federal regulations.

However, when APTC is recalculated mid-year, the Marketplace is required to prorate monthly amounts to reflect APTC that has already been received, to ensure that the APTC you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2016 tax

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year. It appears in your case that the Marketplace did not do this. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received APTC for the entire 12 months of the year.

Therefore, the January 8, 2016 eligibility redetermination notice is MODIFIED to state you are newly conditionally eligible to receive APTC effective February 1, 2016, at only a *tentative* rate of \$227.00 per month, and, if you enrolled in a silver level health plan, to receive cost-sharing reductions.

In addition, the matter is RETURNED to the Marketplace for a recalculation of the APTC you are entitled to from February 1, 2016 forward, by dividing your annual expected tax credit by 11 months of 2016, instead of 12 months. The amount of APTC to which you are entitled may increase, dating to February 1, 2016.

Decision

The December 21, 2015 eligibility redetermination notice is AFFIRMED.

The January 8, 2016 eligibility redetermination notice is MODIFIED to reflect that you are tentatively entitled to up to \$227.00 per month in APTC, effective February 1, 2016.

The matter is RETURNED to the Marketplace for a recalculation of the amount to which you are eligible for the 11 months of the year for which you received (or will receive) APTC, by dividing your annual expected tax credit by 11 months of 2016, instead of 12 months. The amount of APTC to which you are entitled may increase, dating to February 1, 2016.

Effective Date of this Decision: April 12, 2016

How this Decision Affects Your Eligibility

You were eligible to enroll in a QHP at full cost, effective January 1, 2015, and were enrolled in your silver-level QHP, effective January 1, 2015.

You are tentatively eligible for up to \$227.00 in APTC and eligible for cost-sharing reductions effective February 1, 2016; this amount may change depending on the Marketplace's mid-year recalculation.

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 21, 2015 eligibility redetermination notice is **AFFIRMED**.

The January 8, 2016 eligibility redetermination notice is **MODIFIED** to reflect that you are tentatively entitled to up to \$227.00 per month in APTC, effective February 1, 2016.

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The matter is RETURNED to the Marketplace for a recalculation of the amount to which you are eligible for the 11 months of the year for which you received (or will receive) APTC, by dividing your annual expected tax credit by 11 months of 2016, instead of 12 months. The amount of APTC to which you are entitled may increase, dating to February 1, 2016.

You were eligible to enroll in a QHP at full cost, effective January 1, 2015, and were enrolled in your silver-level QHP, effective January 1, 2015.

You are tentatively eligible for up to \$227.00 in APTC and eligible for cost-sharing reductions, effective February 1, 2016; this amount may change depending on the Marketplace's mid-year recalculation.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

