



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

Notice of Decision

Notice Date: July 3, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000573

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On May 19, 2014, you appeared at a hearing on your appeal of NY State of Health Marketplace's April 11, 2014 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the 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 Federal regulation 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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Issues

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

Did the Marketplace properly determine that [REDACTED] was eligible for an advance premium tax credit (APTC) up to \$38.00 monthly as of April 11, 2014?

Did the Marketplace properly determine that [REDACTED] was not eligible for cost sharing reductions (CSR) as of April 11, 2014?

Procedural History

You applied for health insurance through the Marketplace on April 10, 2014.

On April 11, 2014, the Marketplace issued an eligibility determination in your case. It said that you were eligible to receive up to \$38.00 monthly of APTC, but were not eligible for CSR because your household income of \$44,600.00 was higher than the allowable income limits for that program.

On April 11, 2014, you spoke with the Marketplace's Customer Service Unit and appealed that determination.

The Marketplace redetermined your eligibility and on April 16, 2014 and April 23, 2014, sent you two additional eligibility determinations. These redeterminations reached the same conclusion as the original eligibility determination of April 11, 2014.

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On May 19, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and it was closed at the end of the hearing.

Findings of Fact

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

- 1) Appellant is married and plans on filing taxes in 2014 with her husband as married filing jointly (NYSOH Exhibit 1, pp. 5, 7; Appellant's Testimony 5/19/14).
- 2) Appellant expects to earn \$12,000.00 during the 2014 tax year and her husband expects to earn \$29,000.00 and have additional income of \$3,600.00, for a total expected household income of \$44,600.00 (NYSOH Exhibit 1, pp. 7, 9-10; Appellant's Testimony 5/19/14).
- 3) According to the Marketplace application, the Appellant is seeking insurance through the Marketplace, but her husband is not.
- 4) According to the Marketplace application, the Appellant resides in Suffolk County.
- 5) Appellant testified that even with APTC, she will have no extra money left to make any insurance premium payments due to monthly living expenses and her own medical care expenses (Appellant's Testimony 5/19/14).

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

Applicable Law and Regulations

A taxpayer's household income includes the modified adjusted gross income (MAGI) of all the individuals in the taxpayer's family who are required to file a return for the taxable year (26 CFR § 1-36B-1(e)(2)).

The amount of APTC awarded equals

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through the NY State of Health in the county where the taxpayer resides

minus

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2) the taxpayer's expected contribution amount

(see IRC § 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 towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on household's income. For household income in the range of at least 250 % of the 2013 federal poverty level (FPL) but less than 300% of the 2013 FPL, the expected contribution is from 8.05% to 9.5% of the household income (26 CFR § 1.36B-3(g)(2)).

Cost-Sharing Reductions (CSR) are available to someone whose household income is not expected to exceed 250% of the FPL for the plan year coverage is requested. Since the 2013 FPL for a two-person household is \$15,510.00, CSR is available only if the household income is no higher than \$38,775.00 (250%).

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a Qualified Health Plan (QHP). Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605 (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The matters at issue are whether the Marketplace properly determined that the maximum amount of the appellant's advance premium tax credit (APTC) was \$38.00 per month and properly determined that the appellant was not eligible for cost-sharing reductions (CSR).

According to the record there are two people in your household, you and your husband. You reside in Suffolk County, where the second lowest cost silver plan available through the Marketplace for an individual costs \$378.00 per month.

Your expected income for 2014 is \$44,600.00, which is 287.56% of the 2013 FPL for a two-person household. At 287.56% of the FPL, the expected contribution to the cost of the health insurance premium is 9.14% of income, or \$339.70 per month.

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The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$378.00 per month) minus your expected contribution (\$339.70 per month), which equals \$38.30 per month. Therefore the Marketplace correctly computed your APTC to be \$38.00 per month.

Cost sharing reductions are available to a person who has a household income no greater than 250% of the 2013 FPL. Since your household income is 287.56% of the 2013 FPL, you are not eligible for cost sharing reductions.

You testified that even with APTC, you will not be able to afford to pay your health insurance premium because of your monthly expenses. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

Decision

The April 11, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 3, 2014

How This Decision Affects Your Eligibility

You are eligible for an advance premium tax credit (APTC) of up to \$38.00 per month.

You are not eligible for cost-sharing reductions (CSR) because your income is over the limit allowed.

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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Submit an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

AND/OR

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- Bring a lawsuit in state court in accordance with Article 78 of the New York Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of this Decision.

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 April 11, 2014 eligibility determination is AFFIRMED.

As of April 11, 2014, the Appellant was eligible for an advance premium tax credit (APTC) of up to \$38.00 per month but not eligible for cost-sharing reductions (CSR) because her income was over the limit allowed.

If Appellant is interested in requesting a hardship exemption, she can find additional information at the Federal Marketplace website (www.healthcare.gov).

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]