



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

Notice of Decision

Decision Date: July 15, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000585

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On May 30, 2014, [REDACTED], acting as your authorized representative, appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 9, 2014 preliminary eligibility redetermination.

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).

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[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that [REDACTED] was eligible for \$0.00 monthly of Advance Premium Tax Credit (APTC) as of April 9, 2014?

Procedural History

The Marketplace received your application on December 24, 2013.

On December 28, 2013, the Marketplace issued an eligibility determination stating that, with a household income of \$58,200.00 you were eligible to enroll in a qualified health plan through the Marketplace, eligible for up to \$0.00 per month of APTC, and eligible for cost-sharing reductions.

On April 9, 2014, you reentered your application using the same household income and the Marketplace prepared a preliminary determination with the same outcome as that in the December 28, 2013 eligibility determination.

On April 16, 2014, you spoke with Marketplace Customer Service and appealed the April 9, 2014 preliminary determination.

On April 19, 2014, the Marketplace issued a notice of eligibility redetermination that was consistent with the April 9, 2014 redetermination.

On May 28, 2014, a Hearing Officer contacted you. You requested that the Hearing Officer speak to your husband, [REDACTED], and your insurance broker and authorized both of them to act as your authorized representatives.

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The Hearing Officer contacted your husband and agreed to adjourn the hearing until May 30, 2014, to give him an opportunity to prepare for the hearing. In turn, your husband agreed to waive formal notice of hearing on your behalf.

On May 30, 2014, your authorized representative, [REDACTED], 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) Appellant and her husband plan on filing their 2014 taxes as married filing jointly, and they will claim their three children as dependents.
- 2) Appellant, her husband, and their three children live in Monroe County.
- 3) The household's adjusted gross income for 2013 was \$57,605. The expected gross income for 2014 is \$60,000 with the husband's take-home pay at \$2,100 every 2 weeks.
- 4) Appellant and her husband expect to claim approximately \$800 in student loan interest deductions on their 2014 taxes.
- 5) The authorized representative stated that the appellant had health coverage through Healthy New York for 3 years costing \$193.86 per month, with average co-pays but no prescription coverage. This was financially manageable and adequate in terms of coverage.
- 6) Appellant's monthly essential household living expenses are approximately \$3,466 and consist of a mortgage payment of \$1,500, \$400 in gas, \$210 for car insurance, \$200 for utilities, \$36 for water, \$20 for garbage removal, \$10 for basic cable, \$40 for internet, \$70 for life insurance, \$180 for home and cell phones, and \$80.90 for student loan repayment.
- 7) The authorized representative stated that the cheapest bronze plan costs \$245 monthly which is a \$51.14 monthly increase over the cost of the Healthy NY plan, has an out-of-pocket expense of \$5,000, only covers preventive care and not sick care, and is not accepted by any of the Appellant's doctors, all of which he feels makes the current program unreasonable.

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

Applicable Law and Regulations

A person may qualify for APTC if her household income is between 138% and 400% of the Federal Poverty Level (FPL) (45 CFR § 155.305(f)). The FPL for a household of five is \$27,570, so a person in that household may qualify for APTC if the household income is between \$38,046 (138% FPL) and \$110,280 (400% FPL).

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

- 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 income. For household income in the range of at least 200% FPL but less than 250% FPL, the expected contribution is from 6.30% to 8.05% of the household income (26 CFR § 1.36B-3(g)(2)).

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 the maximum they are entitled to, based on gross income, may receive an income tax refund. A person who receives more tax credit than they were entitled to, based on gross income, will owe the excess as an additional income tax liability (26 CFR 1.36B-4).

CSR is available to a person who (1) is eligible to enroll in a qualified health plan (QHP) through the Marketplace, (2) meets the requirements to receive an advance premium tax credit, (3) is expected to have a household income that does not exceed 250 % of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)).

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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(a), (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

There are five people in your tax household: you, your husband and your three children.

The preliminary redetermination made on April 9, 2014, and included in the notice of eligibility determination issued on April 19, 2014, was based on anticipated 2014 household income of \$58,200. At this income level, your household meets the income qualification for APTC.

On May 30, 2014, your authorized representative testified that your 2014 household income would be comparable to what was reported on your application. Therefore, the APTC was properly calculated on an anticipated 2014 income of \$58,200.

You and your family reside in Monroe County. The second lowest cost silver plan that is available in Monroe County through the Marketplace costs \$270.68 per month.

Your anticipated household income of \$58,200 equals 211.0% of the FPL for a household of five. At 211.0% of the FPL, the expected contribution to the cost of the health insurance premium is 6.68% of the anticipated household income. For an annual anticipated household income of \$58,200, this works out to \$3,887.76 per year, or \$323.98 per month.

The maximum APTC that can be authorized equals the cost of the second lowest cost silver plan (\$270.68 per month) minus your expected contribution (\$323.98 per month). Since your expected contribution is higher than the cost of the

second lowest cost silver plan, the amount of APTC that can be approved by the Marketplace is \$0.00.

You do qualify for cost-sharing reductions, which can provide assistance so that you will pay less when you go to the doctor or get a prescription. However, you must select a silver level qualified health plan in the Marketplace to receive this benefit. This, according to your authorized representative, may not be affordable.

If you feel you are unable to afford the insurance available to you, you may seek an exemption from paying a penalty, when you file your 2014 taxes, for not having health insurance.

If you wish to be considered for a hardship exemption, consult the Federal Marketplace website (www.healthcare.gov) for an application and more information.

Decision

The April 19, 2014 eligibility redetermination is AFFIRMED.

Effective Date of this Decision: July 15, 2014

How this Decision Affects Your Eligibility

You remain eligible for a maximum of \$0.00 in advance premium tax credit.

You remain eligible to receive cost-sharing reductions, provided you are enrolled in a silver level qualified health plan through the Marketplace.

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:

- Make 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 the Decision (45 CFR § 155.520(c))

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AND/OR

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

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 19, 2014 eligibility redetermination is AFFIRMED.

Appellant is eligible for an advance premium tax credit up to \$0.00 per month and eligible for cost-sharing reductions while she is enrolled in a silver level qualified health plan through the Marketplace.

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]
[REDACTED]
[REDACTED]