



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: AP000000000586

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

Dear [REDACTED],

On May 29, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 5, 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 letter.

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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Issue

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

Did the Marketplace properly determine that as of April 5, 2014, the appellant was eligible for advance payments of premium tax credit (APTC) of up to \$49.00 per month?

Procedural History

The Marketplace received appellant’s application for health insurance on March 24, 2014. On March 25, 2014, and March 28, 2014, the Marketplace issued notices advising the appellant that more income information was needed before an eligibility determination could be made.

On April 5, 2014, the Marketplace issued an eligibility determination stating that the appellant was eligible to enroll in a qualified health plan (QHP) and, at an attested household income of \$40,596.47, was entitled to up to \$49.00 per month in APTC. The appellant was not entitled to cost sharing reductions (CSR).

On April 16, 2014, the appellant spoke to the Marketplace Customer Service unit and appealed that determination.

On May 27, 2014, the appellant was scheduled to appear for a telephone hearing. A Hearing Officer from the Marketplace’s Appeals Unit called the appellant and adjourned the hearing because appellant stated that she had not received proper notice of the hearing date and time.

The appellant waived her right to formal notice, and the hearing was adjourned to May 29, 2014. On May 29, 2014, the appellant had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and it was held open for 15 days for appellant to allow submission of additional evidence on the appellant's income. Appellant's 2013 tax return was uploaded to her Marketplace account on June 5, 2014. The record is now closed.

Findings of Fact

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

- 1) The appellant is currently unmarried and has no dependents.
- 2) The appellant currently has a tax filing status of single.
- 3) The appellant's Marketplace application states that the appellant's household income is \$40,596.47.
- 4) The appellant testified that she is employed in a profession that does not pay at a set and steady rate.
- 5) Appellant's 2013 tax return reflects an adjusted gross income of \$37,940.00. Appellant testified that if she receives the same type of jobs she did in 2013 this year, then her 2014 adjusted gross income will also be \$37,940.00.
- 6) The appellant currently resides in Kings County.
- 7) Appellant feels that if she does not receive additional advance premium tax credit, all of the insurance plans available in her county will be unaffordable for her.

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

Applicable Law and Regulations

An advance premium tax credit (APTC) is available to a person who is eligible to enroll in a QHP and:

1. expects to have a household income between 138% and 400% of the 2013 federal poverty level (FPL),

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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 qualified health plan, and
3. is not otherwise eligible for minimum essential coverage except through the individual market (45 CFR § 155.305(f)).

The maximum amount of APTC that can be approved 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's income. For household income in the range of at least 300% of the 2013 federal poverty level (FPL), but less than 400% of the 2013 FPL, the expected contribution is from 9.5% of the household income (26 CFR § 1.36B-3(g)(2)).

The APTC amount cannot be more than the cost of the premiums for the Qualified Health Plan that the taxpayer and the taxpayer's family members obtain through the Marketplace (IRC § 36B, 26 CFR § 1.36B-3).

The 2013 FPL for a one-person household is \$11,490.

Legal Analysis

Of the APTC factors noted in the Law and Regulations section above, the only one currently at issue is the requirement related to household income level, which directly affects the maximum amount of APTC that can be authorized.

You live in a one-person household.

You reside in Kings County, where the second lowest cost silver plan available through the Marketplace costs \$370.53 per month.

When the Marketplace determined your eligibility, your application indicated an expected 2014 income of \$40,596.47, which is 353.32% of the 2013 FPL for a one-person household. At 353.32% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$321.39 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$370.53 per month) minus your expected contribution (\$321.39 per month), which equals \$49.14 per month.

Therefore, relying on the income information in your application, the Marketplace correctly computed your maximum APTC to be \$49.00 per month, as stated in the April 5, 2014 eligibility determination.

Cost sharing reductions are available to a person who has a household income no greater than 250% of the 2013 FPL. Since household income in your application was 353.32% of the 2013 FPL, you were not eligible for cost sharing reductions.

However, additional information that was made part of the record during and after the May 29, 2014 hearing suggests that the appellant's expected income for 2014 is \$37,940.00 rather than \$40,596.47. Therefore the appellant's APTC should be recalculated as of June 5, 2014, when all additional evidence was received and the record was closed.

Decision

The April 5, 2014 eligibility determination is AFFIRMED.

However, based upon additional evidence that was made part of the record during and after the May 29, 2014 hearing, this matter is returned to the Marketplace for redetermination of the appellant's eligibility, as of June 5, 2014, on an expected 2014 income of \$37,940.00.

Effective Date of this Decision: July 15, 2014

How this Decision Affects Your Eligibility

The April 5, 2014 determination that you were eligible for APTC of up to \$49.00 per month was correct when it was made, based on the income information you provided, so that determination continues in effect.

However, by June 5, 2014 you provided credible evidence that your expected 2014 income is \$37,940.00. Therefore, the Marketplace will use that new information to redetermine your eligibility as of June 5, 2014 and issue a new eligibility determination.

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))

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:
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Summary

The Marketplace's eligibility determination made on April 5, 2014, is AFFIRMED.

The Marketplace is directed to redetermine the appellant's eligibility as of June 5, 2014 with an expected 2014 income of \$37,940.00 and issue a new notice of eligibility determination.

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:

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