



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

Notice of Decision

Decision Date: July 28, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000613

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 3, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 1, 2014 preliminary 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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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000613

[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 \$120.00 per month in advance premium tax credit (APTC) as of April 1, 2014?

Procedural History

The Marketplace first received your application for health insurance on November 26, 2013.

On April 18, 2014, the Marketplace issued a notice stating that your eligibility for health insurance had been redetermined on updated information. It was determined that, with a household income of \$33,800.00, you were eligible to enroll in a qualified health plan, that you qualified for up to \$120.00 dollars per month in APTC, and that you were not eligible for cost-sharing reductions (CSR).

On April 29, 2014, you spoke with Marketplace Customer Service and appealed the April 18, 2014 eligibility determination.

On June 3, 2014, 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 application, you are single and have no dependents.
- 2) In your Marketplace application you indicated that your expected household income is \$33,800.
- 3) According to your Marketplace application, you live in Westchester County.
- 4) You testified that your health requires you to see numerous medical specialists.
- 5) You testified that you pay rent and have many expenses.
- 6) You testified that all of the health insurance plans offered through the Marketplace are unaffordable and you cannot afford the premiums and the high deductibles.

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

Applicable Law and Regulations

A tax filer is eligible for an advance premium tax credit (APTC) if (1) the tax filer is expected to have a household income of at least 100% percent but not more than 400% of the Federal Poverty Level (FPL), and (2) the tax filer expects to claim a personal exemption deduction on his or her tax return for an applicant who meets the eligibility requirements to enroll in a qualified health plan and is not eligible for minimum essential coverage except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR 1.36B-2).

NY State of Health uses Internal Revenue Service rules to determine the amount of APTC that can be authorized. Under those rules, a taxpayer's household income is the taxpayer's Modified Adjusted Gross Income (MAGI) plus the MAGI of all other individuals in the taxpayer's family who are required to file a tax return for the taxable year (26 CFR § 1-36B-1(e)(1)).

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 the NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(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 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 a person who is eligible to enroll in a qualified health plan (QHP) and:

- 1) is eligible for an advance premium tax credit (APTC),
- 2) has a household income less than 250% of the FPL, and
- 3) enrolls in a silver level health plan

(45 CFR § 155.305(g)).

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)).

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal

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Marketplace website (www.healthcare.gov) for additional information and an application.

Legal Analysis

The matters at issue are whether the Marketplace properly determined that the maximum amount of your advance premium tax credit (APTC) was \$120.00 per month and properly determined that you were not eligible for cost-sharing reductions (CSR).

According to the record, you are the only person in your household.

In your April 1, 2014 application, you attested to an expected household income of \$33,800.00 for 2014. During the hearing, you stated that your rent and other expenses prevent you from being able to pay for the health insurance premiums and deductible amounts your insurance plan requires you to pay. Since the Internal Revenue Service rules do not allow rent expense to be deducted from the calculation of a taxpayer's modified adjusted gross income that is used to determine a taxpayer's allowable amount of APTC, the Marketplace's failure to include these expenses in the calculation of your allowable APTC was correct.

You reside in Westchester County, where the second lowest cost silver plan available through the Marketplace costs \$383.18 per month.

Your expected income for 2014 is \$33,800.00 which is 294.17% of the 2013 FPL for a one-person household. At 294.17% of the FPL, the expected contribution to the cost of the health insurance premium is 9.33% of income, or \$262.80 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$383.18 per month) minus your expected contribution (\$262.80 per month), which equals \$120.38 per month.

Therefore the Marketplace correctly computed your APTC to be \$120.00 per month.

Cost sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 294.17% of the 2013 FPL, you are not eligible for cost sharing reductions.

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 an exemption, consult the Federal Marketplace website (www.healthcare.gov) for an application and more information.

Decision

The April 18, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 28, 2014

How this Decision Affects Your Eligibility

The April 18, 2014 eligibility determination is correct and it continues in effect.

You are eligible to receive APTC at an amount of \$120.00 per month, which was based on a household size of one and a household income of \$33,800.00.

You are not eligible for cost-sharing reductions.

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

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.

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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 18, 2014 eligibility determination is correct and so it is AFFIRMED.

You are eligible to receive APTC at an amount of \$120.00 per month, which was based on a household size of one and a household income of \$33,800.00.

You are not eligible for cost-sharing reductions

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]