



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

Notice of Decision

Decision Date: August 5, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000630

[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 January 25, 2014 eligibility determination as redetermined and reissued on April 18, 2014.

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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[REDACTED]
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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 [REDACTED] [REDACTED] were not eligible for an advance premium tax credit (APTC) or for cost sharing reductions (CSR) as of March 28, 2014?

Procedural History

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

On March 11, 2013, the Marketplace issued an eligibility determination that said you were eligible to enroll in a qualified health plan (QHP) without any tax credits or cost-sharing reductions because your household income was higher than the allowable income limits for those programs.

You then updated your application on March 27, 2014 to reflect that you had married.

On March 28, 2014, the Marketplace issued an eligibility redetermination that said you and your wife were eligible to enroll in a QHP without any subsidy because your household income was over the maximum income limits allowed.

On May 7, 2014, you spoke with the Marketplace Customer Service Unit and appealed the March 28, 2014 eligibility redetermination.

On June 9, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was closed at the end of the hearing.

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Findings of Fact

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

- 1) You initially reported on your Marketplace application that your projected 2014 income is \$124,799.99.
- 2) You married during 2014, and reported this life-changing event to the Marketplace on March 27, 2014.
- 3) For 2014, you and your wife expect to file your taxes as married filing jointly and do not expect to take any line item deductions (Appellant's Testimony 6/9/2014).
- 4) You are expecting a child on or about September 26, 2014, and expect to have related expenses that you do not have now (Appellant's Testimony 6/9/2014).
- 5) You testified that you are self-employed, work as an independent contractor, and are paid hourly.
- 6) You testified that your income fluctuates because you are not paid unless you work, which means you do not get paid for any days off such as for holiday, sickness, personal reasons, or vacation.
- 7) You testified that, because of personal obligations and a death in the family, you have taken off more time this year than in the past and expect to take more time off when the baby is born, so your income for 2014 will likely be around \$100,000.
- 8) You testified that your household's monthly expenses are high and take up most of your income. The total monthly estimate is \$6450 in expenses, which consists of a mortgage payment of \$4700, including escrow charges and insurance; insurance installment of \$1,000; utility expenses of \$475; security charge of \$40; and telephone and internet costs of \$235.
- 9) You testified that \$569.01 for a bronze level plan that provides the lowest level of health coverage is unreasonable and unaffordable. You are considering applying for an exemption for yourself (Appellant's Testimony 6/9/2014).

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

Applicable Law and Regulations

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An advance premium tax credit (APTC) is available to a tax filer whose household income is not expected to be more than 400% of the Federal Poverty Level (FPL) for the benefit year for which coverage is requested (45 CFR § 155.305(f); 26 CFR 1.36B-2). For a household of two people, 100% of the 2013 FPL is \$15,510.00, so a household of two people can qualify for APTC if the household income is no more than \$62,040.00 (400.00%).

Cost sharing reductions (CSR) are available only to someone whose household income is not expected to exceed 250% of the FPL for the plan year coverage is requested. Since the 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%).

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)).

"Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount equal to the interest paid by the taxpayer during the taxable year (26 USC § 221; see also 26 USC § 62 (17)).

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

Your household size for purposes of an advance premium tax credit (APTC) and cost-sharing reductions (CSR) analysis is two people: you and your wife. You expect to file as married filing jointly on your 2014 federal tax return.

You credibly testified that your expected earnings for the 2014 tax year would be \$100,000.00. While you also testified to several monthly expenses, those expenses are

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not deducted from expected earnings for purposes of determining modified adjusted gross income (MAGI).

Your MAGI-based income is \$100,000.00, which places your household at 645% of the 2013 FPL. The maximum income amount for APTC eligibility for a two-person household is \$62,040.00 (400.00% of FPL). The maximum income amount for CSR eligibility for a two-person household is \$38,775.00 (250% of FPL). With a MAGI-based income of \$100,000.00, you earn more than the allowable maximum income to qualify for APTC or CSR.

However, you testified that you may not be able to afford to pay your health insurance premium for even a bronze level plan because of 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 consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

Decision

The March 28, 2014 eligibility redetermination is **AFFIRMED**.

Effective Date of this Decision: August 5, 2014

How this Decision Affects Your Eligibility

Your household is not eligible to receive advance premium tax credits (APTC) or cost-sharing reductions (CSR) because your income is over the maximum limits allowed for those programs.

If You Disagree with this Decision (Appeal Rights)

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 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 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 for assistance.

If You Have Questions about this Decision (Customer Service Resources):

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 28, 2014 eligibility redetermination is **AFFIRMED**.

Your household is not eligible to receive advance premium tax credits (APTC) or cost-sharing reductions (CSR) because your income is over the maximum limits allowed for those programs.

If you are interested in requesting a hardship exemption, you can find additional information and an application 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).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]