



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

Notice of Decision

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000631

Decision Date: August 5, 2014

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 13, 2014, you appeared at a hearing on your appeal of NY State of Health Marketplace's May 3, 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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[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 as of May 3, 2014, you were eligible for advance premium tax credit (APTC) of up to \$228.00 per month?

Procedural History

The Marketplace received your initial application for health insurance on February 27, 2014. An eligibility determination notice was issued February 28, 2014, and stated that you were not eligible for financial assistance because you were currently enrolled in a Public MEC (minimum essential coverage) program.

On May 2, 2014, your eligibility was redetermined. On May 3, 2014, an eligibility redetermination notice was issued. It stated that you were eligible to enroll in a qualified health plan (QHP) and, at an attested household income of \$49,046.41, were entitled to up to \$228.00 per month in APTC as well as cost-sharing reductions (CSR).

On May 8, 2014, you spoke to the Marketplace Customer Service unit and appealed your determination.

On June 13, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and it was left open for 15 days to give you the opportunity to submit proof of your son's tuition expenses. That same day, proof of your son's preschool tuition amount was uploaded to your online Marketplace account. The record was then closed.

Findings of Fact

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

- 1) You are currently married, and you and your husband have four dependents.
- 2) You currently have a tax filing status of married filing jointly.
- 3) As of May 2, 2014, your Marketplace account states that your household's income was \$49,046.41. You confirmed this amount through testimony at the hearing.
- 4) You testified and provided proof that the only tax deduction you planned on adding for the 2014 tax year was a tuition credit deduction for your son's preschool tuition, in the amount of \$3,195.00.
- 5) You testified that your family incurs many expenses during the month. These expenses include, among other things, a mortgage, car insurance, medication for your husband, and money for travel to Rochester for your son's surgeries. As a result, it is difficult to afford an insurance premium without more financial assistance.
- 6) You are the only member of your household who is seeking insurance.
- 7) You currently reside in Broome County.

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

Applicable Law and Regulations

Your household income is the sum of the MAGI (modified adjusted gross income) of every person in the household (42 CFR §435.603 (d)(1)). MAGI is calculated using the same methods that are used pursuant to 26 USC § 36B(d)(2)(B). Some income will not be counted as part of your MAGI, including certain educational scholarships and certain American Indian and Alaska Native income, and lump sum payments will only be considered in the month that they are received (42 CFR § 435.603(e)(1-3)).

The maximum amount of the advance premium tax credit (APTC) that can be authorized equals

1. the cost of a health insurance premium for the second lowest cost silver plan offered through NY State of Health in your county

minus

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2. the taxpayer's expected contribution amount

(26 USC § 36B, 26 CFR § 1.36B-3).

A 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 150% of FPL but less than 200% of FPL, the expected contribution is from 4% to 6.30% of the household income (26 USC § 36B(b)(3)(A)).

The 2013 FPL for a household of six people is \$31,590.

Legal Analysis

The only matter currently at issue is the amount of APTC to which your household is entitled.

According to the record there are six people in your household: you, your spouse and your four dependent children.

You reside in Broome County, where the second lowest cost silver plan available through the Marketplace for an individual costs \$401.40 per month.

As of May 3, 2014, your expected household income for 2014 was \$49,046.41. Even though your household has numerous expenses, including preschool tuition for your son, none of these expenses can be deducted from your gross household income for purposes of calculating APTC.

A household at \$49,046.41 is 155.26% of the FPL for a six-person household. At 155.26% of the FPL, your expected contribution to the cost of the health insurance premium is 4.24% of income, or \$173.30 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$401.40 per month) minus your expected contribution (\$173.30 per month), which equals \$228.11 per month. Therefore the Marketplace correctly computed your APTC to be \$228.00 per month.

Decision

The Marketplace's eligibility redetermination made on May 3, 2014 is **AFFIRMED**.

Effective Date of this Decision: August 5, 2014

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How this Decision Affects Your Eligibility

At the time of your hearing, you were eligible to receive up to \$228.00 per month of advance premium tax credit (APTC).

After the hearing, information in your Marketplace account was changed. Any eligibility determination rendered after June 13, 2014, the date of your hearing, is not affected by this decision.

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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- By fax: 1-855-900-5557

Summary

The Marketplace's eligibility redetermination made on May 3, 2014, is AFFIRMED.

At the time of your hearing, you were eligible to receive up to \$228.00 per month of advance premium tax credit (APTC).

After the hearing, information in your Marketplace account was changed. Any eligibility determination rendered after June 13, 2014, the date of your hearing, is not affected by this decision.

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]