



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: AP000000000634

Decision Date: August 29, 2014

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

Dear [REDACTED]

On June 11, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 9, 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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Appeal Identification Number: AP000000000634

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

Issue

The issues presented for review by the Appeals Unit of the NY State of Health are:

Did the Marketplace properly determine that you were eligible for an advance premium tax credit (APTC) in the amount of \$298.00 per month as of May 9, 2014?

Did the Marketplace properly determine that, as of May 9, 2014, you were eligible for cost-sharing reductions (CSR) provided you are enrolled in a silver-level qualified health plan (QHP)?

Procedural History

On April 22, 2014, you filed an initial application for health insurance through the Marketplace for yourself only. You submitted income documentation from [REDACTED].

On May 9, 2014, you reentered your application using the same household income. The Marketplace made a preliminary determination that, with a household income of \$18,772.00, you were eligible for up to \$298.00 monthly of APTC and for CSR if enrolled in a silver-level QHP.

You spoke to the Marketplace Customer Service unit and appealed the May 9, 2014 preliminary eligibility determination.

On May 10, 2014, the Marketplace issued a notice of eligibility redetermination that was consistent with the May 9, 2014 preliminary determination.

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On May 23, 2014, you submitted income documentation from [REDACTED]

On May 29, 2014, the Marketplace issued an eligibility determination notice stating that based on a household income of \$41,080.00, you are eligible to receive up to \$45.00 monthly of APTC.

On June 11, 2014, you had a telephone hearing. Testimony was taken at the hearing. The record was developed during the hearing and is now complete and closed.

Findings of Fact

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

1. You reapplied for health insurance through the NY State of Health Marketplace on May 9, 2014 for yourself only.
2. You plan to file a 2014 federal income tax return.
3. You plan to file with the tax status "single" and claim no dependents on your 2014 federal income taxes.
4. You indicated an expected yearly income of \$18,772.00 on your May 9, 2014 health insurance application.
5. You testified that in the first part of 2014 you worked for two employers, [REDACTED].
6. You testified that you stopped working for [REDACTED] on April 20, 2014. On April 22, 2014, you provided pay stubs from [REDACTED], including one for the pay period ending April 13, 2014. On that pay stub, your year-to-date gross income is \$6,334.00. The pay stub for the week ending April 20, 2014 is not in the record.
7. On May 23, 2014, you submitted pay stubs from [REDACTED]. The pay stubs from this employer indicate gross income of \$858.00 for each two-week pay period. They also indicate year-to-date gross earnings of \$7,419.00 as of April 20, 2014.
8. You testified that your expected 2014 income from [REDACTED] is \$25,000.00.

9. You reside in Queens County.

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 tax filer who expects to (1) have a household income of at least 100% but not more than 400% of the Federal Poverty Level (FPL) and (2) claim a personal exemption deduction on his or her tax return for an applicant who is eligible to enroll in a qualified health plan and (3) can obtain minimum essential coverage only through the individual Marketplace (45 CFR § 155.305(f); 26 CFR 1.36B-2).

Eligibility for advance premium tax credit (APTC) is based on the taxpayer's modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1-36B-1(e)(2)).

At the end of a tax year, people who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their income tax form). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Cost-sharing reductions (CSR) are available only to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have a household income that does not exceed 250 percent of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

A household of one person is eligible for CSR if the household's income is from 138% to 250% of the FPL for an individual to be eligible, which is from \$15,857.00 (138%) up to \$28,725.00 (250%).

Legal Analysis

Your household size for an APTC and CSR analysis is one person, because you expect to file single and claim no dependents on your 2014 federal income tax return.

On May 9, 2014, you attested on your health insurance application that your expected income for 2014 was \$18,772.00. On May 10, 2014, the Marketplace relied on that income statement to issue a determination that you were eligible for an advance premium tax credit of up to \$298.00 per month.

Your statement that you expected income of \$18,772.00 was consistent with the [REDACTED] pay stubs that you uploaded on April 22, 2014. However, you testified that you were also employed at [REDACTED], and income documentation for [REDACTED] was not provided until May 23, 2014.

On May 23, 2014, you submitted pay stubs from [REDACTED]. The pay stubs from this employer indicated gross income of \$858.00 for each two-week pay period. The most recent pay stub indicated year-to-date gross earnings of \$7,419.00 as of April 20, 2014.

Since, by the end of April 2014, you had earned at least \$13,753.00 (\$6,334.00 from [REDACTED] and \$7,419.00 from [REDACTED]), your May 9, 2014 statement that you expected to earn only \$18,772.00 through the end of 2014 is an underestimate and cannot be relied upon. Since the April 26, 2014 eligibility determination is based on an expected income statement that is not supported by the facts, it must be RESCINDED.

On May 28, 2014, you attested on your health insurance application that your expected income for 2014 is \$41,080.00. That amount is consistent with the pay stubs you uploaded but does not take into account the fact that you had stopped working for [REDACTED] on April 20, 2014. On May 29, 2014, the Marketplace relied on that statement, which apparently overestimates your 2014 income, to conclude that you were eligible for an advance premium tax credit of up to \$45.00 per month. Since the May 29, 2014 eligibility determination also is based on an expected income statement that is not supported by the facts, it also is RESCINDED.

This leaves the question of what expected income amount should be used to determine your APTC and CSR eligibility. According to the record, between the beginning of 2014 and April 13, 2014 you earned \$6,334.00 from [REDACTED]. You earn \$858.00 from [REDACTED] every two weeks, which works out to \$22,308.00 for the entire year. Therefore the information currently available indicates that \$28,642.00 is a reasonable expected income for 2014, but only if your employment situation and income do not change.

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).

Accordingly, your case will be returned to the Marketplace for redetermination of your eligibility as of April 26, 2014 with a one-person household and an expected 2014 income of \$28,642.00.

Decision

The May 10, 2014 eligibility is RESCINDED.

The May 29, 2014 eligibility is RESCINDED.

This case is returned to the Marketplace for redetermination of eligibility as of April 26, 2014 based on a one-person household with an expected household income of \$28,642.00.

Effective Date of this Decision: August 29, 2014

How this Decision Affects Eligibility

The Marketplace will recalculate your APTC and CSR eligibility, based on a one-person household with an expected household income of \$28,642.00 and issue another eligibility determination notice effective as of May 10, 2014.

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:

- Submit 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 New York 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.

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 May 10, 2014 eligibility determination based on a household income of \$18,772.00 is not supported by the record and is RESCINDED.

The May 29, 2014 eligibility determination based on a household income of \$41,080.00 is not supported by the record and is RESCINDED.

This case is returned to the Marketplace for redetermination of eligibility based on a one-person household with an expected household income of \$28,642.00.

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]