



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

Notice of Decision

Decision Date: August 4, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000638

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On July 14, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 9, 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 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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Issues

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

Did the Marketplace properly determine that [REDACTED] was eligible for \$54.00 monthly of advance premium tax credit (APTC) as of May 9, 2014?

Did the Marketplace properly determine that [REDACTED] was not eligible for cost-sharing reductions (CSR) as of May 9, 2014?

Procedural History

The Marketplace received your initial application for health insurance on May 8, 2014.

On May 9, 2014, the Marketplace issued an eligibility redetermination in your case. It said that you were eligible to receive up to \$54.00 monthly of advance premium tax credits (APTC), although you were not eligible for cost-sharing reductions (CSR) since your household income of \$42,984.00 exceeded the allowable income limit of \$38,775.00.

On May 12, 2014, you spoke with the Marketplace's Customer Service unit and appealed the May 9, 2014 determination.

The Marketplace sent you a Notice of Telephone Hearing on May 21, 2014 for a scheduled telephone hearing on June 16, 2014. On June 16, 2014, you spoke to a Hearing Officer and asked to adjourn the hearing to a later date.

On June 16, 2014, the Marketplace sent you a Notice of Telephone Hearing for a July 14, 2014 telephone hearing.

On July 14, 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) You are widowed and live with your 11-year-old son (NYSOH Exhibit A, pgs. 1-2; Appellant testimony 7/14/14).
- 2) You applied for health insurance for both yourself and your son.
- 3) Your husband passed in December 2013 (Appellant testimony 7/14/14).
- 4) You expect to file a U.S. Income Tax return for the 2014 tax year, file as "head of household," and claim only your son as a dependent (NYSOH Exhibit A, pg. 1).
- 5) You expect your household income during 2014 to be \$42,984.00, which includes \$21,492.00 in Title II Social Security survivor's benefits to both yourself and your son (NYSOH Exhibit A, pgs. 1-2; Appellant's testimony 7/14/14).
- 6) You live in Queens County, New York (NYSOH Exhibit A, pg. 1; Appellant's testimony 7/14/14).
- 7) You testified that if you do not qualify for additional advance premium tax credits, you will have difficulty making any insurance premium payments due to having incurred approximately \$5,000.00 in medical debt between 2009 and 2014 when you were without health insurance (Appellant's testimony 7/14/14).
- 8) During the application process, your son was found to be qualified for Child Health Plus. He has since enrolled in health insurance through Child Health Plus with a premium of \$30.00 per month.

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),
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 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

(see 26 USC § 36B; 26 USC § 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 is set by Federal law at 2% to 9.5% of household income (26 USC § 36B(b)(3)(A)).

For household income that is at least 250% but less than 300% of the 2013 federal poverty level (FPL), the expected contribution is from 8.05% to 9.5% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR 155.300(a)).

For a two-person household, the 2013 FPL is \$15,510 (78 Fed Reg 5182, 5813 (2013)).

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 advanced premium tax credit (APTC);

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2. has a household income less than 250% of the 2013 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 he or 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(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 Marketplace website (www.healthcare.gov) for additional information and an application.

Legal Analysis

The only matters currently at issue are the amount of advance premium tax credits (APTC) to which you are entitled and whether you are eligible for cost-sharing reductions (CSR).

There are two people in your tax household, yourself and your son. You expect to file as “head of household” with one dependent on your tax return for 2014.

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

Your expected household income for 2014 is \$42,984.00. In determining the amount of your household income, we are required to count not just your own earnings but the income of everyone in your household who is required to file a tax return for 2014, even when that income is in the form of Title II benefits.

Your expected income for 2014 is \$42,984.00, which is 277.14% of the 2013 FPL for a two-person household. A 277.14% of the FPL, the expected contribution to the cost of the health insurance premium is 8.84% of income, or \$316.65 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 (\$316.65 per month), which equals \$53.88 per month.

Therefore the Marketplace correctly computed your APTC to be \$54.00 per month.

Cost-sharing reductions (CSR) are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 277.14% of the 2013 FPL, you are not eligible for CSR and the Marketplace determination was correct on that point.

You testified that you may not be able to afford to pay your health insurance premium. 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 Marketplace website (www.healthcare.gov) for additional information and an application.

Decision

The May 9, 2014 eligibility redetermination is **AFFIRMED**.

Effective Date of this Decision: August 4, 2014

How this Decision Affects Your Eligibility

You continue to be eligible to receive up to \$54.00 monthly of advance premium tax credit (APTC).

You are not eligible for cost-sharing reductions (CSR).

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.

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

Summary

The Marketplace's eligibility determination made on May 9, 2014, is **AFFIRMED**.

You continue to be eligible to receive up to \$54.00 monthly of advance premium tax credits (APTC).

You are not eligible for cost-sharing reductions (CSR).

Legal Authority

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We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]