



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

Notice of Decision

Decision Date: August 29, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000654

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

Dear [REDACTED],

On June 18, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 19, 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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Issue

The issue presented for review by the Appeals Unit of the NY State of Health is:

Did the Marketplace properly determine [REDACTED] household eligibility level for the advance premium tax credit (APTC) as of May 19, 2014?

Procedural History

The Marketplace received your application for health insurance on March 31, 2014. That application was modified on May 19, 2014.

On May 19, 2014, the Marketplace made a preliminary redetermination that you and your spouse were eligible to enroll for a qualified health plan and that you were entitled to an advance premium tax credit (APTC) of up to \$369.00 per month.

Also on that same day, you spoke to the Marketplace's Customer Service Unit and appealed the determination.

On May 20, 2014, the Marketplace issued a notice detailing the eligibility determination that had been made on your May 19, 2014 application.

On June 18, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. [REDACTED], your husband and Authorized Representative, also attended the hearing. The record was developed during the hearing and 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 designated your spouse as your Authorized Representative. Your spouse testified on behalf of both of you.
- 2) You reside with your spouse and your two children.
- 3) You expect to file your Federal tax return jointly with your spouse for the 2014 tax year.
- 4) You and your spouse expect to claim your two children as tax dependents for the 2014 tax year.
- 5) You, your spouse, and your children are seeking health insurance through the Marketplace; but you are appealing only the determination for yourself and your spouse.
- 6) Your spouse is the only individual in the household who is employed. You are currently taking classes at [REDACTED].
- 7) During the hearing, your spouse testified that he currently makes \$28.00 per hour and works approximately 40 hours per week. According to his testimony, your household income prior to deductions is expected to be \$58,240.00.
- 8) Since you are in school, you anticipate taking a deduction for tuition expenses in the amount of \$600.00 for the 2014 tax year.
- 9) You reside in Kings County, New York.
- 10) You received assistance from a Navigator to complete your Marketplace application.
- 11) You believe the insurance premium for yourself and your spouse is too expensive, even after applying the financial assistance available to your household.

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

Applicable Law and Regulations

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 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 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 200% but less than 250% of the 2013 federal poverty level (FPL), the expected contribution is from 6.30% to 8.05% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR 155.300(a)).

For a four-person household, the 2013 FPL is \$23,550.00 (78 Fed Reg 5182, 5813 (2013)).

NY State of Health uses Internal Revenue Service rules to determine who is in a taxpayer's family for purposes of calculating APTC. Generally, a taxpayer's family includes the people for whom the taxpayer claims a tax deduction. A taxpayer may claim a deduction for himself or herself, his or her spouse, and his or her tax dependents (26 CFR § 1.36B-1).

The law that allows for a deduction from adjusted gross income of up to \$4,000 in tuition and fees paid by joint tax filers during the tax year to a qualified educational institution expired as of December 31, 2013, and has not yet been renewed by Congress (see 26 USC § 222, 26 USC § 25A).

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

Legal Analysis

The only question is the amount of the APTC to which your household is entitled.

For purposes of determining APTC, you are in a four-person household, which includes you, your spouse, and your two children who will be claimed as dependents.

On your May 19, 2014 application for health insurance you said that your expected household income for 2014 was \$57,200.00.

You reside in Kings County, where the second lowest cost silver plan available through the Marketplace costs \$741.05 per month.

On the May 19, 2014 application, your expected income for 2014 is stated as \$57,200.00 which is 242.89% of the 2013 federal poverty level (FPL) for a four-person household. At 242.89% of the FPL, the expected contribution to the cost of the health insurance premium is 7.80% of the household's income, or \$371.85 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$741.05 per month) minus your expected contribution (\$371.85 per month), which equals \$369.20 per month.

Therefore the Marketplace correctly determined your APTC, rounded to the nearest dollar, to be \$369.00 per month as of May 19, 2014, and the May 20, 2014 eligibility determination is AFFIRMED.

However, during the telephone hearing on June 18, 2014, your spouse's testimony indicated that you expect your income to be different than the amount stated in the May 19, 2014 application. According to the testimony at your hearing, your husband makes \$28.00 per hour and works approximately 40 hours per week. Therefore, according to the income your spouse testified to at the hearing, you expect your 2014 household income to be \$58,240.00.

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Your spouse testified that you expect to take a deduction of \$600 for tuition and fees from your adjusted gross income. However, the law allowing this deduction expired on December 31, 2013, and has not yet been renewed by Congress for 2014. At this time, it is not known if Congress will renew the law. Therefore, this deduction cannot be used in calculating your adjusted gross income presently.

Since the testimony taken on June 18, 2014 indicates that your household expects an income of \$58,240.00 during 2014, the amount of your APTC may have changed since the May 20, 2014 determination was issued. Therefore, this matter will be returned to the Marketplace to redetermine your eligibility as of June 18, 2014, based on an expected household income of \$58,240.00 and a household size of four people.

Decision

The May 20, 2014 eligibility determination is AFFIRMED.

However, based on your testimony of a different expected household income for 2014, this case is returned to the Marketplace for redetermination of eligibility based on an attested expected 2014 household income of \$58,240.00 for a family of four as of June 18, 2014.

Effective Date of this Decision: June 18, 2014

How this Decision Affects Your Eligibility

This decision sends your case back to the Marketplace to redetermine your eligibility as of June 18, 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:

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- 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 May 20, 2014 eligibility determination is AFFIRMED.

This case is returned to the Marketplace for redetermination of eligibility based on an expected 2014 household income of \$58,240.00 for a family of four as of June 18, 2014.

Legal Authority

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]
[REDACTED]

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