



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: AP000000000655

Decision Date: September 19, 2014

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 23, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 24, 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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DEPARTMENT OF HEALTH
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Decision

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[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that [REDACTED] was eligible for an advance premium tax credit (APTC) in the amount of \$95.00 as of February 24, 2014?

Did the Marketplace properly determine that, as of February 24, 2014, [REDACTED] was eligible for cost-sharing reductions (CSR) while enrolled in a silver-level qualified health plan (QHP)?

Procedural History

On February 23, 2014, you filed an application for health insurance through the Marketplace for your son, [REDACTED], and for yourself.

On February 24, 2014, the Marketplace issued eligibility determination notices. The notices state that based on a household income of \$44,559.96, you were eligible to enroll in a QHP, receive up to \$95.00 monthly of APTC, and CSR if enrolled in a silver-level QHP. A second notice stated that your son was eligible to enroll in Child Health Plus with a total monthly premium of \$15.00.

On February 24, 2014, you reapplied for health insurance through the Marketplace. The Marketplace issued a preliminary eligibility determination stating that based on a household income of \$44,559.96, you were eligible to enroll in a QHP, receive up to \$95.00 monthly of APTC, and CSR if enrolled in a silver-level QHP. It also stated that your son was eligible to enroll in Child Health Plus with a total monthly premium of \$15.00.

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On May 19, 2014, you spoke to the Marketplace's Customer Service and appealed that preliminary eligibility determination.

On May 29, 2014, you reapplied for health insurance through the Marketplace.

On May 30, 2014, the Marketplace issued an eligibility determination notice stating that, at that time, based on a household income of \$7,359.96, you and your son were eligible for Medicaid. As a condition of eligibility for Medicaid coverage, you were requested to submit absent parent information.

On June 23, 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. There are three people in your household: you, your 9-year-old son, and your 5-year-old daughter.
2. You applied for health insurance through the NY State of Health Marketplace on February 24, 2014 for your son and for yourself.
3. According to the Marketplace application, you reside in Bronx County, New York.
4. You plan to file a 2014 federal income tax return.
5. You plan to file with the tax status head of household and claim two dependents, your son and daughter, on your 2014 federal income tax return.
6. On your Marketplace application, you stated that your expected yearly income was the same as last year and that it was \$44,559.96. During your hearing you testified that the income figure listed on your application was correct for 2013 and you expect to have the same income for 2014.
7. According to the Marketplace application, your son has an expected income of \$130.00 during 2014 and will not be filing a tax return. Also, your daughter expects her income to be \$0.00 during 2014 and will not be filing a tax return.

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

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Applicable Law and Regulations

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 advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan (QHP) and:

- 1) expects to have a household income between 138% and 400% of the 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

(see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4), N.Y. Soc. Serv. Law § 366(4)(c)).

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

(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 towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on the household income.

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

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For a three-person household, the 2013 FPL is \$19,530.00 (78 Fed Reg 5182, 5813).

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),
- 2) has a household income less than 250% of the FPL, and
- 3) enrolls in a silver level health plan

(45 CFR § 155.305(g)).

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the FPL (New York Public Health Law (PHL) § 2511(2)(a)(iii)). The amount of any premium payment, if any, that must be made on behalf of an eligible child who enrolls in Child Health Plus is dependent upon the child's family household income in relation to the relevant FPL for the given family size (PHL § 2510(9)(d)). For example, a \$15.00 dollar premium payment is required for each eligible child whose family household income is between 223% and 250% of the FPL (PHL § 2510(9)(d)(iii)).

For a three-person household, the 2014 FPL is \$19,790.00 (79 Fed. Reg. 3953).

Legal Analysis

Your household size for an APTC and CSR analysis is three people, because you expect to file as head of household and claim two dependents, your son and daughter, on your 2014 federal income tax return.

According to the attestation on your Marketplace application and your testimony, your expected 2014 household income was \$44,559.96.

For a three-person household, the 2013 FPL is \$19,530.00. Therefore, an income of \$44,559.96 placed you at 228.16% of the FPL, which qualified you for APTC.

At 228.16% of the FPL, the expected contribution to the cost of the health insurance premium was 7.29% of income, which equaled \$270.51 per month.

You reside in Bronx County, where the second lowest cost silver plan available through the Marketplace for an individual costs \$365.28 per month.

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The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$365.28 per month) minus your expected contribution (\$270.51 per month), which equals \$94.77 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$95.00 per month at the time of the February 23, 2014 determination.

Cost sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income was 228.16% of the 2013 FPL, you were eligible for cost-sharing reductions as long as you were enrolled in a silver level plan through the Marketplace.

A \$15.00 premium payment is required for each eligible child whose family household income is between 223% and 250% of the FPL. Your family size of three members with a household income of \$44,559.96 resulted in a FPL of 228.16%. Therefore, based on the household FPL, the required Child Health Plus premium required for [REDACTED] was \$15.00 per month.

Since the February 24, 2014 eligibility determinations correctly stated that with a reported household income of \$44,599.96 you were eligible for APTC of up to \$95.00 per month and eligible for cost-sharing reductions, and since they correctly stated that your son was eligible to enroll in Child Health Plus with a total monthly premium of \$15.00, the determinations issued on February 24, 2014 were correct and so are AFFIRMED.

These findings do not affect any subsequent determinations based on different facts.

Decision

The February 24, 2014 eligibility determinations are AFFIRMED.

Effective Date of this Decision: September 19, 2014

How this Decision Affects Eligibility

You are eligible to enroll in a QHP through the Marketplace, receive up to \$95.00 monthly of APTC, and CSR if enrolled in a silver-level QHP.

Your son is eligible to enroll in Child Health Plus with a total monthly premium of \$15.00.

This decision does not affect any determinations issued after February 24, 2014.

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).

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

- 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
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- By fax: 1-855-900-5557

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Summary

The February 24, 2014 eligibility determinations are correct and continue in effect.

You are eligible to enroll in a qualified health plan through the Marketplace, receive up to \$95.00 monthly of advance premium tax credit, and receive cost-sharing reductions while you are enrolled in a silver-level qualified health plan through the Marketplace

Your son is eligible to enroll in Child Health Plus with a total monthly premium of \$15.00.

This decision does not affect any determinations issued after February 24, 2014.

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]