



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

Notice of Decision

Decision Date: October 3, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000662

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 20, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 25, 2014 eligibility redetermination.

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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[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that [REDACTED] is not eligible for an advance premium tax credit or cost-sharing reductions?

Procedural History

The Marketplace first received your application for health insurance on March 22, 2014, and issued a preliminary eligibility determination in your case regarding your application for health insurance for you and your daughter, [REDACTED].

On March 23, 2014, the Marketplace issued an eligibility determination that said you were eligible to enroll in a qualified health plan (QHP) through the Marketplace, but that you were not eligible for financial assistance. You were not eligible to receive tax credits because your household income was over the allowable income limit to receive such financial assistance.

On March 24, 2014, you reapplied for coverage, this time asking for insurance for yourself alone.

On March 25, 2014, the Marketplace issued a redetermination of your eligibility for health insurance and said you continued to be eligible to enroll in a QHP without a subsidy.

On May 19, 2014, you called the Marketplace's Customer Service unit and appealed that determination.

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On June 20, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for 10 days in order for you to submit additional evidence. You submitted a bank statement for [REDACTED], a cable bill for [REDACTED], and a [REDACTED]; these documents give his address as [REDACTED] (Appellant Exhibit 1).

Findings of Fact

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

- 1) You are married.
- 2) You have not resided with your spouse for approximately 5 years.
- 3) You file a joint tax return with your spouse, and you have a daughter you claim as a dependent on your tax return.
- 4) You testified that you live separately from your spouse even though you are still married.
- 5) You have not obtained a divorce or legal separation from your spouse.
- 6) Your earned income is \$27,000.00 and your spouse's income is \$75,000.00.
- 7) You testified that you would submit evidence to show your husband does not live with you.
- 8) Documents submitted after the hearing indicate that [REDACTED] resides in Union City, New Jersey

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

Applicable Law and Regulations

Generally, a taxpayer who is married must file a joint return with his or her spouse to be eligible for premium tax credits (45 CFR § 155.305(f); 26 CFR § 1.36B-2).

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An 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 is eligible to enroll in a QHP; and
- 3) is eligible for minimum essential health insurance coverage only through the individual Marketplace

(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)).

“*Federal poverty level or FPL* means the most recently published Federal poverty level, updated periodically in the Federal Register by the Secretary of Health and Human Services under the authority of 42 U.S.C. 9902(2), as of the first day of the annual open enrollment period for coverage in a QHP through the Exchange, as specified in § 155.410” (45 CFR 155.300(a)).

During March 2014, the FPL used to determine APTC eligibility was \$19,530.00 for a three-person household (78 Fed. Reg. 5182, 5183).

Cost-sharing reductions (CSR) are available only to a person who (1) is eligible to enroll in a qualified health plan (QHP) through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have a household income that does not exceed 250% 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) (2013)).

Legal Analysis

There are three people in your tax household: you, your spouse, and your dependent daughter.

A person who is married and files a joint tax return with his or her spouse will be eligible to claim an advance premium tax credit (APTC). According to the documents in the record and testimony at the hearing, you are married and plan to file a joint tax return with your spouse for the 2014 taxable year. Therefore, your tax filing status does not disqualify you from receiving APTC.

However, eligibility for APTC also involves income requirements. A person may qualify for APTC if his or her household income is between 138% and 400% of the federal poverty level (FPL) (45 CFR § 155.305(f)). Since the FPL for a three-person household is \$19,530.00, a person in that household may qualify for

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APTC if the household income is between \$26,951.40 (138% FPL) and \$78,120.00 (400% FPL).

Although you do not reside with your spouse, the modified adjusted gross income for your household's federal tax return tax is the sum of your \$27,000.00 earned income and your spouse's \$75,000.00 income. This total income of \$102,000.00 places your household at 522.27% of the FPL.

The maximum income amount for APTC eligibility for a three-person household is \$78,120.00. Your MAGI-based income exceeds this limit. Therefore, you are not eligible for APTC.

In order to qualify for cost-sharing reductions (CSR), a person must meet the requirements for APTC eligibility. Since you do not qualify for APTC, you are also ineligible for CSR.

Decision

The March 25, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 3, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You are eligible to enroll in a qualified health plan through the Marketplace, but you are not eligible for an advance premium tax credit or cost-sharing reductions.

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))

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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 March 25, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You are eligible to enroll in a qualified health plan through the Marketplace, but you are not eligible for an advance premium tax credit or cost-sharing reductions.

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]