



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: AP000000000687

Decision Date: September 15, 2014

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

Dear [REDACTED],

On July 3, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 27, 2014 eligibility determination.

The attached 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 letter.

Legal Authority

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

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[REDACTED]
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Issue

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

Did the Marketplace properly determine that [REDACTED] was eligible for an advance premium tax credit (APTC) in the amount of \$7.00 per month and ineligible for cost-sharing reductions (CSR) as of March 27, 2014?

Procedural History

On March 26, 2014, you filed an application for health insurance through the Marketplace for yourself only.

On March 27, 2014, the Marketplace issued an eligibility determination notice stating that, based on a household income of \$34,190.00, you are eligible to enroll in a qualified health plan (QHP) and receive up to \$7.00 monthly of APTC but you are ineligible for CSR.

On April 23, 2014, you submitted a written appeal request to the Marketplace regarding your March 27, 2014 eligibility determination. You also submitted additional income documentation.

On May 23, 2014, the Marketplace issued an eligibility redetermination notice stating that based on a household income of \$18,720.00, you are eligible to

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enroll in a QHP, to receive up to \$204.00 monthly of APTC, and to receive CSR provided you are enrolled in a silver-level QHP through the Marketplace.

On July 3, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, you stated that you were satisfied with the May 23, 2014 eligibility determination.

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 March 26, 2014, for yourself only.
2. According to the Marketplace application, you reside in Chautauqua County.
3. You plan to file a 2014 federal income tax return.
4. You plan to file with the tax status single and claim no dependents on your 2014 federal income tax return.
5. You paid federal income taxes on income of \$32,155 for the 2012 tax year and \$20,381 for the 2013 tax year. Your income has changed significantly since 2012.
6. Direct deposit advice forms dated January 10, 2014; January 17, 2014; January 24, 2014; and January 31, 2014 indicate that your employer is [REDACTED] and that you earn \$9.00 per hour.
7. Your expected earned income is \$18,720.00 for 2014.
8. You testified that you are satisfied with the eligibility redetermination issued on May 23, 2014. You stated that you understood that the Marketplace decision would be final.

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 the 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 8.05% to 9.5% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR 155.300(a)).

For a one-person household, the 2013 FPL is \$11,490 (78 Fed Reg 5182, 5813 (2013)).

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).

Legal Analysis

The matters at issue are whether the Marketplace properly determined that the maximum amount of your advance premium tax credit (APTC) was \$7.00 per month and properly determined that you were not eligible for cost-sharing reductions (CSR).

According to the record you are the only person in your tax household. You are single and will not be claiming any dependents on your 2014 federal income tax return.

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When the Marketplace issued its March 27, 2014 notice, your eligibility was determined on a household income of \$34,190.00. Your testimony and the documentation you have submitted for the record are credible, and they support your argument that this number does not accurately reflect your expected income for 2014.

Your 2012 and 2013 federal tax return forms indicate that you had a higher income in past years but the January 2014 direct deposit forms from [REDACTED] indicate that you have been working full time at a wage of \$9.00 per hour. On May 23, 2014, the Marketplace issued an eligibility determination based on a household income of \$18,720.00. The January 2014 income documentation that you have provided supports your contention that this number more accurately reflects your anticipated 2014 income.

Since the March 27, 2014 eligibility determination is based on an incorrect household income it must be MODIFIED. That raises the question of whether the May 23, 2014 determination, which is based on an anticipated income of \$18,720.00 is correct.

You reside in Chautauqua County, where the second lowest cost silver plan available through the Marketplace costs \$275.35 per month.

Your expected income for 2014 is \$18,720.00, which is 159.01% of the 2013 FPL for a one-person household. At 159.01% of the FPL, the expected contribution to the cost of the health insurance premium is 4.59% of income, or \$71.60 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$275.35 per month) minus your expected contribution (\$71.60 per month), which equals \$203.75 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$204.00 per month in the notice of eligibility determination issued on May 23, 2014.

Cost sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income of \$18,720.00 is at 159.01% of the FPL, you are eligible for cost-sharing reductions. The May 23, 2014 notice of eligibility determination states that you are eligible for cost-sharing reductions, so it is also correct in that respect.

Since the May 23, 2014 determination is based on the anticipated income information you provided and properly determines your advance premium tax credit and cost-sharing reductions for that income level, the March 27, 2014 eligibility is hereby MODIFIED to adopt, in full, the contents of the May 23, 2014 eligibility determination.

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Note that the advance premium tax credit of \$204.00 per month is based on the income you told the Marketplace that you expected to earn during 2014. The final tax credit you get will be based on your income as stated in your 2014 federal tax return. If you earn more during 2014 than you now expect – for example, because you get a raise or find a new job – the advance credit you get based on your \$18,270.00 estimate may be higher than the final credit you are entitled to claim on your 2014 tax return. If that happens, it could increase the amount of income taxes you have to pay or reduce your refund.

Decision

The March 27, 2014 eligibility determination is MODIFIED to adopt, in full, the contents of the May 23, 2014 eligibility determination.

Any portion of the March 27, 2014 determination that is inconsistent with May 23, 2014 determination has no effect.

Effective Date of this Decision: March 27, 2014

How this Decision Affects Eligibility

The March 27, 2014 is changed to be the same as the May 23, 2014 eligibility determination.

You are eligible for an advance premium tax credit of up to \$204.00 per month and you are eligible for cost-sharing reductions provided you are enrolled in a silver level qualified health plan through the Marketplace.

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

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

Summary

The March 27, 2014 eligibility determination is MODIFIED to adopt, in full, the contents of the May 23, 2014 eligibility determination.

Any portion of the March 27, 2014 determination that is inconsistent with May 23, 2014 determination has no effect.

This means that the March 27, 2014 is changed to be the same as the May 23, 2014 eligibility determination.

You are eligible for an advance premium tax credit of up to \$204.00 per month and you are eligible for cost-sharing reductions provided you are enrolled in a silver level qualified health plan through the Marketplace.

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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]