



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

Notice of Decision

Decision Date: September 5, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000701

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

Dear [REDACTED]

On July 9, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s February 25, 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 that [REDACTED] was eligible for an advance premium tax credit (APTC) of \$87.00 as of February 25, 2014?

Procedural History

The Marketplace received your application for health insurance on February 25, 2014.

On February 27, 2014, the Marketplace issued an eligibility determination in your case. It said that you were eligible to receive up to \$87.00 monthly of advance premium tax credits (APTC) to help pay for the cost of your insurance based on your household income of \$45,199.00. You were also found eligible to get cost sharing reductions (CSR).

On June 4, 2014, you spoke with the Marketplace's Customer Service unit and an appeal was created regarding that determination.

On June 12, 2014, the Marketplace redetermined your eligibility and reached the same conclusions.

On July 9, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and it was 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 are currently single and living with your two children.
- 2) You expect to file your 2014 tax return as Head of Household.
- 3) You expect to claim your two children as dependents for the 2014 tax year.
- 4) You expect your income for 2014 to be the same, or slightly lower, than what you reported in your February 25, 2014 Marketplace application. You reported an expected household income of \$45,199.00 for 2014, which takes into account a \$2,600.00 student loan interest deduction.
- 5) According to your Marketplace application, you reside in New York County.
- 6) You attested that you cannot afford your health insurance premium even with the financial assistance that has been approved.
- 7) You testified that even though you cannot afford the health insurance premium for yourself, you can afford the health insurance premium for your children. You testified that you are not currently paying your own health insurance premium but have been paying your children's health insurance premiums.

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

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

For household income in the range of at least 150% of the 2013 federal poverty level (FPL) but less than 200% of the 2013 FPL, the expected contribution is from 4.0% to 6.3% of the household income (26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

For a three-person household, the 2013 FPL is 19,530.00 (78 Fed Reg 5182, 5183 (2013)).

Although an individual may receive an exemption from paying a penalty for not purchasing a Qualified Health Plan (QHP) through the individual marketplace, such an exemption is only available if that person experienced a financial hardship or domestic circumstance 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 purchase health coverage under a QHP, or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605(a), (g)).

Currently in New York State, any request for a hardship exemption should be sent to the U.S. Department of Health and Human Services (HHS), since the New York State of Health has elected to delegate exemption determinations to the HHS appeals entity (45 CFR § 155.505(c)).

Legal Analysis

The only matter at issue is whether the Marketplace properly determined that the maximum amount of your advance premium tax credit (APTC) was \$87.00 per month as of February 25, 2014.

According to the record there are three people in your household: you and your two children. You are the only person in her household appealing your determination through the Marketplace.

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

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Your expected income for 2014 is \$45,199.00, which is 231.43% of the 2013 FPL for a three-person household. At 231.43% of the FPL, the expected annual contribution to the cost of the health insurance premium is 7.4% of the household's income, or \$278.73 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$365.28 per month) minus your expected household contribution (\$278.73 per month), which equals \$86.55 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your maximum APTC amount to be \$87.00 per month.

Cost sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 231.43% of the 2013 FPL and you are still eligible for APC, you are also eligible for cost sharing reductions if you are enrolled in a silver level health insurance plan through the Marketplace.

You stated that you cannot afford to pay your health insurance premium if your APTC amount does not increase to cover the full cost of a plan, and that if your APTC level remained the same, you might be interested in applying for a hardship exemption.

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.

Decision

The February 25, 2014 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: September 5, 2014

How this Decision Affects Your Eligibility

Your advance premium tax credit amount remains at \$87.00 and you are still eligible to receive Cost-Sharing Reductions if you are enrolled in a silver level health insurance plan through the Marketplace.

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.

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]).

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 February 25, 2014 eligibility determination is AFFIRMED.

Your advance premium tax credit amount remains at \$87.00 and you are still eligible to receive cost-sharing reductions if you are enrolled in a silver level health insurance plan through the Marketplace.

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 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]