



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

Notice of Decision

Decision Date: September 15, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000702

[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 June 6, 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).

THIS PAGE INTENTIONALLY LEFT BLANK



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

Decision

Decision Date: September 15, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000702

[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 eligible for an advance premium tax credit (APTC) of \$33.00?

Procedural History

The Marketplace initially received your application on November 23, 2013.

On December 14, 2013, your application was modified and resubmitted. That same day, the Marketplace made a preliminary determination that you were eligible to enroll in a qualified health plan (QHP) and that you were entitled to an advance premium tax credit (APTC) of up to \$33.00 per month.

On June 5, 2014, you spoke to the Marketplace's Customer Service Unit and appealed the preliminary determination.

On June 6, 2014, the Marketplace issued a notice of determination consistent with the preliminary determination made on December 14, 2013.

On July 3, 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.

Findings of Fact

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

- 1) You are married and reside with your spouse and two children.
- 2) You expect to file your 2014 tax return as Married Filing Jointly. You and your spouse expect to claim your two children as dependents for the 2014 tax year.
- 3) You are the only person in your household who is seeking insurance through the Marketplace.
- 4) You testified that your income has not changed from what you provided in your December 14, 2013 application, which is \$55,224.00.
- 5) Your oldest child is beginning college in the fall and you testified that you will be assisting your child in paying for the cost of tuition. Tuition for the school year is \$9,000.00, or \$4,500.00 per semester. You testified that you and your husband will be paying for your child's tuition through a combination of paying out of pocket and taking out loans. As such, you expect to claim the tuition deduction for the 2014 tax year.
- 6) You reside in Suffolk County, New York.

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

Applicable Law and Regulations

A taxpayer's household income is the taxpayer's own modified adjusted gross income plus the modified adjusted gross income of all the other individuals in the taxpayer's family who are required to file a return for the tax year (26 USC § 36B(d); 26 CFR § 1.36B-1(e)).

The maximum amount of the APTC that can be approved 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

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).

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 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 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)).

For a four-person household, the 2013 FPL is \$23,550.00 (78 Fed Reg 5182, 5183 (2013)).

"Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; see also 26 USC § 62 (17)). Interest on revolving lines of credit, which includes interest on credit card debt, is student loan interest if the borrower uses the line of credit or credit card only to pay qualified education expenses.

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

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR 1.36B-4).

Legal Analysis

The only matter currently at issue is the amount of the advance premium tax credit (APTC) that you can claim.

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).

According to the record, there are four people in your household, which includes you, your spouse, and your two children whom you expect to claim as dependents for the 2014 tax year.

You reside in Suffolk County, where the second lowest cost silver plan for individual coverage available through the Marketplace costs \$378.00 per month.

In your December 14, 2013 application, your expected income for 2014 was \$55,224.00, which is 234.50% of the 2013 FPL for a four-person household. At 234.50% of the FPL, the expected contribution to the cost of the health insurance premium is 7.51% of income, or \$345.47 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$378.00 per month) minus your expected contribution (\$345.47 per month), which equals \$32.53 per month. Therefore, calculated to the nearest dollar, the Marketplace correctly computed your advance premium tax credit (APTC) to be \$33.00 per month.

You testified that you expect to take the maximum deduction of \$4,000 for tuition and fees from your adjusted gross income. However, the law allowing this deduction expired on December 31, 2013, and has not been renewed by Congress. 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.

Decision

The June 6, 2014 notice of eligibility determination, which is consistent with the December 14, 2014 preliminary determination, is AFFIRMED.

Effective Date of this Decision: September 8, 2014

How this Decision Affects Your Eligibility

You remain eligible to stay in a qualified health plan, with an advance premium tax credit of \$33.00 per month.

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

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).

Summary

The Marketplace's eligibility determination made on December 14, 2013, is AFFIRMED.

You remain eligible to stay in a qualified health plan, with an advance premium tax credit of \$33.00 per month.

.

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]