



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

Notice of Decision

Decision Date: September 27, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000745

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On August 12, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 1, 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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Issues

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

Did the Marketplace properly determine that you were eligible for \$250.00 per month of Advance Premium Tax Credit as of July 1, 2014?

Did the Marketplace properly determine that, as of July 1, 2014, you were eligible for cost-sharing reductions if you enrolled in a silver level plan?

Procedural History

The Marketplace received your application for health insurance on June 30, 2014.

On July 1, 2014, the Marketplace issued an eligibility determination notice in your case. The notice stated that based on a household income of \$25,989.00 you were temporarily eligible to receive up to \$250.00 per month in advance premium tax credit (APTC) and that you were temporarily eligible to receive cost sharing reductions (CSR) if you enrolled in a silver level qualified health plan. The notice also requested that you provide documentation of your submitted income, and stated that you had until July 15, 2014 to pick a plan.

On July 14, 2014, you spoke with the Marketplace's Customer Service unit and appealed that determination.

On July 15, 2014, an eligibility redetermination notice was issued. The notice stated that based on a household income \$23,851.00, you were eligible to receive up to \$271.00 per month in APTC and that you continued to be eligible for CSR if you enrolled in a silver level qualified health plan.

On July 21, 2014, you uploaded the requested income documentation to your Marketplace account. The documentation included a printout of your unemployment benefits and paystubs from your former employer. That same day the Marketplace updated your account to reflect the new information and your eligibility was redetermined.

On July 22, 2014, an eligibility redetermination notice was issued. The notice stated that you had a household income of \$22,385.66, and that you were conditionally eligible to receive up to \$286.00 per month in APTC. You might also have been able to reduce your premium to \$0.00 if you selected a silver level plan and used the entire amount of your advance premium tax credit. You continued to be eligible for CSR if you enrolled in a silver level qualified health plan.

On August 12, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You reside in Oneida County.
- 2) You testified that you plan on filing your 2014 income tax return with a tax filing status of Head of Household.
- 3) You testified that the only person you can claim on your tax return is your 16-year old child, who resides with you.
- 4) You testified that at this time you are the only person in your household seeking insurance through the Marketplace.
- 5) You testified that before applying for health insurance through the Marketplace, you had health insurance through your employer. However, you left that job, and that health insurance coverage ended on May 16, 2014.
- 6) You testified that when you first applied through the Marketplace you incorrectly entered your income as \$25,989.00. You stated that this

amount was incorrect because you miscalculated the amount of money you would be receiving from unemployment benefits and you included your daughter's gross income in your own.

- 7) You testified that your correct expected gross income for 2014 is \$22,385.66. This amount includes a deduction for \$1,869.72 in student loan interest payments.
- 8) You testified that you attempted to pick a plan on July 1, 2014, but that all of the plan options available to you were unaffordable.
- 9) You testified that after you received the July 22, 2014 notice, which stated your premium could be \$0.00, you attempted to select a plan in the Marketplace. You were told that you were unable to enroll in a plan because you were outside the enrollment window.

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

Applicable Law and Regulations

An advance premium tax credit (APTC) is available to a tax filer whose household income is not expected to be more than 400% of the Federal Poverty Level (FPL) for the benefit year in which coverage is requested (45 CFR § 155.305(f)(1)(i)).

For a two-person household, the 2013 FPL is \$15,510.00 (78 Fed Reg 5182, 5183 (2013)).

A tax filer's household income includes the modified adjusted gross income (MAGI) of all the individuals in the taxpayer's family who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1)).

The maximum amount of APTC that can be awarded 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 towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on household's income (26 USC § 36B(b)(3)(A)).

For household income that is at least 133% but less than 150% of the 2013 federal poverty level (FPL), the expected contribution is from 3.00% to 4.00 % of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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 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 household of two people is eligible for CSR if the household's income is from 138% to 250% of the 2013 FPL, or \$21,404.00 (138%) to \$38,775.00 (250%).

Under the APTC Premium Assistance program, a parent or caretaker relative who filed taxes or plans to file federal taxes in the tax year for which eligibility is being determined, whose income is above 138% of the FPL but at or below 150% of the FPL, is eligible for payment of health insurance premiums for a silver-rated qualified health plan, after applying advance premium tax credits to the cost of the premiums (N.Y. Soc. Serv. Law § 367-a(3)(e), 13ADM-03 (III)(B)(1)(h)).

The Marketplace provides special enrollment periods during which qualified individuals may enroll in a QHP or change from one QHP to another (45 CFR § 155.420(a)(1)). A special enrollment period can be approved when a person becomes newly eligible or newly ineligible for APTC or CSR (45 CFR § 155.420(d)(6)(i)). A special enrollment period also can be approved when a person's enrollment in the wrong QHP or non-enrollment in a QHP results from Marketplace error (45 CFR § 155.420(d)(4)).

Legal Analysis

You indicated that you expect to file your 2014 federal income tax return as head of household and claim one dependent. Therefore, you are in a two-person household for purposes of determining APTC and CSR eligibility.

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).

You testified that on June 30, 2014, when you first applied for health insurance through the Marketplace, you entered in an expected household income for 2014 as \$25,989.00. You later uploaded income documentation that showed this amount was incorrect and your actual expected household income for 2014 was \$22,385.66. You credibly testified that this discrepancy was a result of your miscalculating the amount of unemployment benefits you were to receive during the year and incorrectly including your daughter's income with your own.

Therefore, we will rely upon your sworn testimony and documentation you provided and base your APTC and CSR analysis on a \$22,385.66 household income, which is the amount reflected in your July 22, 2014 eligibility determination notice.

Accordingly, since the July 1, 2014 and July 15, 2014 eligibility determinations were based on incorrect income information, they are RESCINDED.

You reside in Oneida County, where the second lowest cost silver plan available through the Marketplace for an individual costs \$354.26 per month.

Your expected income for 2014 is \$22,385.66, which is 144.33% of the 2013 FPL for a two-person household. At 144.33% of the FPL, the expected contribution to the cost of the health insurance premium is 3.67% of income, or \$68.46 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$354.26 per month) minus your expected contribution (\$68.46 per month), or \$285.79 per month.

Therefore, in the July 22, 2014 eligibility determination in which the Marketplace based its analysis on a \$22,385.66 income, the Marketplace correctly computed your APTC to be \$286.00 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 144.33% of the FPL, you are eligible for cost sharing reductions.

Under the APTC Premium Assistance program, a parent whose income is between 138% and 150% is eligible for payment of premium amounts that their APTC does not cover if they enroll in a silver-level health plan. Since your household income is at 144.33% of the FPL, you are eligible for the Premium Assistance Program.

Since only the eligibility determination that is based on a household income of \$22,385.66 is supported by the record, the July 22, 2014 eligibility determination based on a household income of \$22,385.66 is correct and AFFIRMED.

Decision

The July 1, 2014 eligibility determination notice that you appealed is **RESCINDED**.

Acting on its own authority, the Appeals Unit also **RESCINDS** the July 15, 2014 eligibility determination notice, because it did not take into account your updated income information and relied on income information you have testified is incorrect.

The July 22, 2014 eligibility determination notice is **AFFIRMED** and remains in effect. You are eligible to receive up to \$286.00 in APTC and you continue to be eligible for CSR if you enroll in a silver level qualified health plan. You also remain eligible for the APTC Premium Assistance program which may be able to reduce your premium to \$0.00 if you select a silver level plan and use the entire amount of your APTC.

Since you became newly eligible for the APTC Premium Assistance Program in the July 22, 2014 eligibility determination notice, you should have been able to enroll in a plan. However, since you were unable to do so through no fault of your own, a 60 day Special Enrollment Period is granted from the date of this decision to give you the opportunity to enroll in a health plan based on the July 22, 2014 eligibility determination notice.

Effective Date of this Decision: September 27, 2014

How this Decision Affects Your Eligibility

The July 22, 2014 eligibility determination notice is **AFFIRMED** and remains in effect. You are eligible to receive up to \$286.00 in APTC and you continue to be eligible for CSR if you enroll in a silver level qualified health plan. You also remain eligible for the APTC Premium Assistance program which may be able to reduce your premium to \$0.00 if you select a silver level plan and use the entire amount of your APTC.

You have been granted a 60 day Special Enrollment Period from the date of this decision to give you the opportunity to enroll in a health plan based on the July 22, 2014 eligibility determination notice.

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 July 1, 2014 and the July 15, 2014 eligibility determinations are **RESCINDED**.

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).

The July 22, 2014 eligibility determination notice is AFFIRMED and remains in effect. You are eligible to receive up to \$286.00 in APTC and you continue to be eligible for CSR if you enroll in a silver level qualified health plan. You also remain eligible for the APTC Premium Assistance program which may be able to reduce your premium to \$0.00 if you select a silver level plan and use the entire amount of your APTC.

You have been granted a 60 day Special Enrollment Period from the date of this decision to give you the opportunity to enroll in a health plan based on the July 22, 2014 eligibility determination notice.

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]