



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

Notice of Decision

Decision Date: October 10, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000755

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 22, 2014 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 16, 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000755

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that [REDACTED] was eligible for \$90.00 monthly of advance premium tax credit as of July 16, 2014?

Procedural History

The Marketplace received your initial application for health insurance on January 31, 2014.

That same day, the Marketplace prepared a preliminary eligibility determination in your case. It stated that you were, pending receipt of documentation to verify your income, eligible to receive up to \$154.00 per month in advance premium tax credit (APTC) and, provided you were enrolled in a silver-level plan, cost-sharing reductions (CSR). This determination was based on, in part, a household income of \$27,160.00.

On February 18, 2014, you resubmitted your application to the Marketplace, which included the same household income of \$27,160.00.

On April 16, 2014, the Marketplace issued a notice of eligibility determination. The findings of this determination were consistent with the January 31, 2014 preliminary determination.

On May 7, 2014, the Marketplace received two documents from you: (1) a letter from the Social Security Administration dated February 7, 2014, stating that your

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monthly benefit beginning January 2014 was \$1,358.00, and (2) a letter from the Social Security Administration, dated April 21, 2014, stating that your son's monthly benefit beginning January 2014 was \$1,358.00.

On July 15, 2014, you revised your application, in part, to reflect your updated annual household income of \$32,592.00.

On July 16, 2014, the Marketplace issued an eligibility redetermination in your case. It said that you were eligible to receive up to \$90.00 per month of APTC and that you remained eligible for CSR.

On July 24, 2014, you spoke with the Marketplace's Customer Service unit and appealed the July 16, 2014 redetermination.

On September 22, 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 are a widow who currently lives with your 4-year-old son, [REDACTED] (NYSOH Exhibit A, pgs. 1-2; Appellant's testimony 9/22/14).
- 2) Your spouse passed on December 26, 2013 (Appellant's testimony 9/22/14).
- 3) As of the time of your July 15, 2014 application to the Marketplace, you expected to file a U.S. Income Tax return for the 2014 tax year, file as "qualifying widow with dependent child" and claim only your son as a dependent (NYSOH Exhibit A, pg. 1).
- 4) You expect your household income during 2014 to be \$32,592.00, which includes \$16,296.00 in Social Security survivor's benefits for yourself and \$16,296.00 in Social Security survivor's benefits for your son (NYSOH Exhibit A, pgs. 1-2; Appellant's testimony 9/22/14).
- 5) You and live in Monroe County, New York (NYSOH Exhibit A, pg. 1; Appellant's testimony 9/22/14).
- 6) You testified that you are seeking insurance through the Marketplace only for yourself (Appellant's testimony 9/22/14).

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- 7) You testified that since your spouse passed you have incurred significant expenses, including bills relating to your spouse's medical care and services, funeral expenses, and other medical expenses relating to care and services for both you and your son (Appellant's testimony 9/22/14).
- 8) You stated that based upon your current expenses, you will have difficulty affording insurance premiums if you do not qualify for additional advance premium tax credit beyond \$90.00 per month (Appellant's testimony 9/22/14).

Applicable Law and Regulations

The maximum amount of 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

minus

- 2) the taxpayer's expected contribution amount

(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 in the range of at least 200% but less than 250% of the 2013 federal poverty level (FPL), the expected contribution is from 6.30% to 8.05% of the household income (see 26 CFR § 1.36B-3(g)(2); 45 CFR § 155.300(a)).

For a two-person household, the 2013 FPL is \$15,510.00 (78 Fed Reg 5182, 5813 (2013)).

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a Qualified Health Plan (QHP). Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage

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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 purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605 (a), (g)).

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 information and an application.

Legal Analysis

The issue on appeal is the amount of advance premium tax credit (APTC) to which you are entitled.

Your household size for APTC purposes is two (yourself and your son), as you expect to file as “qualifying widow with dependent child” with one dependent on your tax return for 2014.

You reside in Monroe County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$270.68 per month.

In determining the amount of your household income, we are required to count not just your own earnings but the income of everyone in your household who is required to file a tax return for 2014, even when that income is in the form of Social Security survivor’s (Title II) benefits.

Your expected household income for 2014 is therefore \$32,592.00, which is 210.14% of the FPL for a two-person household. At 210.14% of the FPL, the expected contribution to the cost of health insurance premium is 6.65% of the anticipated household income, or \$180.61 per month.

The maximum amount of APTC that you are eligible for equals the cost of the second lowest cost silver plan in your country (\$270.68 per month) minus your expected contribution (\$180.61 per month), which equals \$90.07.

Therefore, to the nearest dollar, the Marketplace correctly computed your APTC to be \$90.00 per month.

You testified that you may not be able to afford to pay your health insurance premium. If you wish to be considered for a hardship exemption, which would

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exempt you from paying a penalty for not having health insurance, check the Federal Marketplace website (www.healthcare.gov) for an application.

Decision

The July 15, 2014 eligibility redetermination is AFFIRMED.

Effective Date of this Decision: October 10, 2014

How this Decision Affects Your Eligibility

You continue to be eligible to receive up to \$90.00 monthly of advance premium tax credit and, if you select a silver-level plan, 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:

- 3) 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

- 4) 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:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The July 15, 2014 eligibility redetermination is **AFFIRMED**.

You continue to be eligible to receive up to \$90.00 monthly of advance premium tax credit and, if you select a silver-level plan, cost-sharing reductions.

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website (www.healthcare.gov).

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]