



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

Notice of Decision

Decision Date: September 23, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000772

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 3, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 31, 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 issue presented for review by the Appeals Unit of the NY State of Health is:

Did the Marketplace properly determine that you were eligible for \$50.00 per month in advance premium tax credit as of July 31, 2014?

Procedural History

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

That same day, the Marketplace made a preliminary redetermination that you were eligible for up to \$50.00 per month in advance premium tax credit (APTC).

Also, on that same day, you spoke with the Marketplace's Customer Service Unit and appealed that determination.

On July 31, 2014, the Marketplace issued a notice consistent with the preliminary eligibility determination; it stated that you were eligible to enroll in a qualified health plan (QHP) and that, based on an annual household income of \$31,200.00, you were entitled to up to \$50.00 per month in APTC. The notice also stated that you were not eligible for Medicaid because the household income you provided of \$31,200.00 was over the allowable income limit of \$16,105.00.

On September 3, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and 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 testified that you plan on filing your 2014 tax return as Single and will claim no dependents on that tax return.
- 2) You testified and provided evidence that your last day of employment was June 27, 2014.
- 3) You testified and provided evidence that your total household income from January 1, 2014 to June 27, 2014 was \$20,800.00.
- 4) You testified that you applied for unemployment benefits at the end of June.
- 5) You testified and provided evidence that you were found eligible for \$400.00 a week in unemployment benefits. This is the amount you receive weekly before taxes are deducted.
- 6) You testified that you received your first unemployment benefits check on July 16, 2014. Since these checks arrive weekly, you also received checks on July 23, 2014 and July 30, 2014.
- 7) You testified that you will receive unemployment benefits until the end of December, unless you are able to find new employment. The total income you expect to receive from unemployment in 2014 is \$10,400.00.
- 8) You testified that since June 27, 2014, the only income you have received is from unemployment benefits.
- 9) According to your Marketplace application, you reside in Erie County.
- 10) You testified that you cannot currently afford an insurance premium on your current monthly income.

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

Applicable Law and Regulations

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2013 federal poverty level; (2) expects to file a tax return

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and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan; and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

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

(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 annual household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 250% but less than 300% of the 2013 FPL, the expected contribution is between 8.05% and 9.50% 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 \$11,490.00 (78 Fed Reg 5182, 5183 (2013)).

An individual is eligible for enrollment in Medicaid when she meets the nonfinancial criteria and has a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)). Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Legal Analysis

According to the record, you are the only member of your tax household. You expect to file as single on your tax return for 2014 and to claim no dependents.

You reside in Erie County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$275.35 per month.

According to your Marketplace application and your evidence at the hearing, you earned \$20,800.00 during 2014 before you separated from employment and expect to receive \$10,400.00 in unemployment benefits this year. This supports a finding that your expected 2014 income is \$31,200.00, which is the household income used for the July 31, 2014 determination.

An annual household income of \$31,200.00 equals 271.54% of the 2013 FPL for a one-person household. At 271.54% of the FPL, the expected contribution to the cost of the health insurance premium is 8.67% of income, or \$225.42 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$275.35 per month) minus your expected contribution (\$225.42 per month), which equals \$49.93 per month. Therefore, the Marketplace correctly computed your APTC to be \$50.00 per month on an expected-income basis.

However, at the hearing, you testified that your 2014 expected annual household income no longer reflects your current income situation and that you would like your financial eligibility to be reconsidered.

You credibly testified that the only income you received during July 2014, the month during which you submitted your application, consisted of unemployment benefits. You testified that you received three checks, for \$400.00 each, during July. Therefore, your income for July is \$1,200.00.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Since the record suggests that the Marketplace calculated your July 30, 2014 eligibility by expected annual income but not by monthly income, the case should be returned to the Marketplace for an eligibility determination on monthly income.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a one-person household with a July 2014 income of \$1,200.00.

Decision

The July 31, 2014 eligibility determination is **AFFIRMED**.

This case is returned to the Marketplace to redetermine eligibility for a one-person household with a July 2014 income of \$1,200.00

Effective Date of this Decision: September 23, 2014

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$50.00 per month.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and a July 2014 income of \$1,200.00.

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 31, 2014 eligibility determination is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$50.00 per month.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and a July 2014 income of \$1,200.00.

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]