



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

Notice of Decision

Decision Date: September 22, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000779

[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 August 2, 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 ineligible for Medicaid but temporarily eligible for \$200.00 per month in advance premium tax credit and cost-sharing reductions as of August 2, 2014?

Procedural History

The Marketplace received your application for health insurance on August 1, 2014. That same day, a preliminary eligibility determination was prepared. It stated that you were temporarily eligible for \$200.00 per month in APTC and to receive CSR.

On August 1, 2014, you spoke to the Marketplace's Customer Service Unit and appealed that preliminary determination.

On August 2, 2014, the Marketplace issued a notice of eligibility redetermination that was consistent with the August 1, 2014 preliminary determination. The notice stated that you were temporarily eligible to enroll in a qualified health plan (QHP), based on an annual household income of \$23,853.87. You were temporarily entitled to up to \$200.00 per month in APTC and, provided you enrolled in a silver level plan, to receive CSR. The notice also stated that you were not eligible for Medicaid, because your household income was over the allowable income limit of \$16,105.00, and that more information was needed to verify your immigration status and income.

You submitted documentation of your immigration status and income on August 1, 2014.

On August 21, 2014, your navigator changed the income information in your application to reflect an expected annual household income of \$17,853.87. A notice issued on August 22, 2014, as a result of this change, stated that you were temporarily eligible to enroll in a QHP based on an annual household income of \$17,853.87. It also stated that you were temporarily entitled to receive up to \$267.00 per month in APTC and, provided you enrolled in a silver level plan, to receive CSR. Again, the notice stated that more documentation was needed to verify your immigration status and income.

On August 27, 2014, your navigator again changed the income information in your application to reflect an expected annual household income of \$22,853.87. A notice issued on August 28, 2014, as a result of this change stated that you were temporarily eligible to enroll in a QHP and, based on an annual household income of \$22,853.87, were temporarily entitled to up to \$211.00 per month in APTC. The notice also stated that, provided you enroll in a silver level plan, you would be eligible to receive CSR, but that more information was needed to verify your immigration status and income.

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.

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 that you will claim no dependents on that tax return.
- 2) You testified that you resigned from your job on May 23, 2014.
- 3) You testified that after you resigned from your job you continued receiving pay checks until June 30, 2014.
- 4) You testified and provided evidence that your expected annual income for 2014 is \$23,853.87. This amount is all of the income you received from your job.
- 5) You testified that the expected incomes entered into your application on August 21, 2014 and August 27, 2014, do not accurately reflect the annual income that you now expect to receive for 2014.

- 6) You testified that since June 30, 2014, your weekly income has been \$0.00. You testified that you do not know when you will begin receiving any form of income again.
- 7) You testified that you do not receive unemployment benefits and do not intend to apply for them.
- 8) You currently reside in Sullivan County.

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 (APTC) 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 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 that is at least 200% but less than 250% of the 2013 FPL, the expected contribution is between 6.30% and 8.05% 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)).

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Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

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 Sullivan County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$330.41 per month.

The August 2, 2014 eligibility determination is based on an annual household income of \$23,853.87, which you credibly testified is the amount of income you earned from during 2014 through your last paycheck, which you received on June 30, 2014.

Since the credible evidence of record supports a finding that your expected income for 2014 is \$23,853.87, that income will be used for purposes of this decision.

Annual household income of \$23,853.87 equals 207.61% of the 2013 FPL for a one-person household. At 207.61% of the FPL, the expected contribution to the cost of the health insurance premium is 6.57% of income, or \$130.60 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$330.41 per month) minus your expected contribution (\$130.60 per month), which equals \$199.81 per month. Therefore, the Marketplace correctly computed your APTC, to the nearest dollar, to be \$200.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 207.61% of the FPL you are eligible for cost-sharing reductions.

However, at the hearing you testified that your 2014 expected annual household income no longer reflects your current income situation.

You testified that you have not received any income since June 30, 2014, and you do not know when you will begin receiving income again. Therefore, your monthly income for July is \$0.00, which puts you at 0.00% of the FPL for that month.

Decision

The August 2, 2014 eligibility determination is AFFIRMED.

The August 22, 2014 and the August 28, 2014 eligibility determinations are RESCINDED because they were determined using an incorrect expected annual household income.

Your case will be returned to the Marketplace for a redetermination of your eligibility based on your \$0.00 income for the month of July.

Effective Date of this Decision: September 19, 2014

How this Decision Affects Your Eligibility

You remain temporarily eligible for an advance premium tax credit of up to \$200.00, as well as cost-sharing reductions.

Your case is returned to the Marketplace for redetermination of your eligibility, based on a one-person household with a \$0.00 income for the month of July 2014.

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 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).

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 August 2, 2014 eligibility determination is AFFIRMED.

The August 22, 2014 and the August 28, 2014 eligibility determinations are RESCINDED because they were determined using an incorrect expected annual household income.

You remain temporarily eligible for an advance premium tax credit of up to \$200.00, as well as cost-sharing reductions.

Your case is returned to the Marketplace for redetermination of your eligibility, based on a one-person household with a \$0.00 income for the month of July 2014.

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]