



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

Notice of Decision

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000787

Decision Date: October 15, 2014

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Dear [REDACTED],

On September 8, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 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).

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Decision

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[REDACTED]
[REDACTED] [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 as of August 6, 2014 you were not eligible for financial assistance because your income was over the allowable limit?

Procedural History

On November 13, 2014, you filed your initial application for health insurance through the Marketplace for yourself only.

On November 13, 2013, the Marketplace made a preliminary determination that, with a reported household income of \$93,725.00, you are eligible to enroll in a qualified health plan (QHP) without financial assistance.

On December 15, 2013, you reapplied for health insurance through the Marketplace. The Marketplace issued a preliminary determination stating that, with a household income of \$93,725.00, you are eligible to enroll in a QHP without financial assistance.

On June 6, 2014, the Marketplace issued an eligibility determination notice stating that, with a household income of \$93,725.00, you remained eligible to enroll in a QHP without financial assistance but did not qualify to select a health plan outside of the open enrollment period.

On August 5, 2014, you reapplied for health insurance through the Marketplace and the Marketplace made another preliminary determination, which you appealed during a conversation with Marketplace Customer Service.

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On August 6, 2014, the Marketplace issued an eligibility determination notice stating that, with a household income of \$93,725.00, you are eligible to enroll in a QHP without a subsidy; qualify to select a health plan outside of the open enrollment period; and have until October 29, 2014 to confirm your plan selection.

On September 8, 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 finding of fact:

1. You applied for health insurance on August 5, 2014 through NY State of Health Marketplace for yourself only.
2. You plan to file a 2014 federal income tax return with the tax status of single and to claim no dependents.
3. Your August 5, 2014 application stated that your expected yearly income for 2014 is \$93,725.00. This amount included \$31,875.00 in earned income; \$2,000.00 in business income; \$60,000.00 in taxable IRA distributions (\$2,500.00 twice a month), and deductions in the amount of \$150.00.
4. During your hearing, you testified that during 2014 you expect to receive \$7,000.00 in earned income, no business income, and \$60,000.00 in taxable IRA distributions (\$2,500.00 twice a month) and to claim no deductions.
5. You currently reside in New York County.

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

Applicable Law and Regulations

Eligibility for the advance premium tax credit (APTC) is based on the taxpayer's modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR 155.300(a)). As used in an APTC analysis, the term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living

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abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1-36B-1(e)(2)).

A taxpayer's adjusted gross income is gross income reduced by pre-tax (above-the-line) deductions. "Gross income" means all income from whatever source it is derived; this includes but is not limited to income derived from business, interest received, rent, royalties, compensation for services, etc. (26 USC § 61).

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan (QHP) and:

- 1) expects to have a household income between 138% and 400% of the Federal Poverty Level (FPL);
- 2) expects to file a tax return and claim a personal exemption deduction for a person who is eligible to enroll in a QHP; and
- 3) is eligible for minimum essential health insurance coverage only through the individual Marketplace

(see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR 435.911(b)(1), 42 CFR 435.603(d)(4), N.Y. Soc. Serv. Law § 366(4)(c)).

"Federal poverty level or FPL" means the most recently published Federal poverty level, updated periodically in the Federal Register by the Secretary of Health and Human Services under the authority of 42 U.S.C. 9902(2), as of the first day of the annual open enrollment period for coverage in a QHP through the Exchange, as specified in § 155.410" (45 CFR § 155.300(a)).

The 2013 FPL for a one-person household is \$11,490.00 (78 Fed Reg 5182, 5183 (2013)).

Legal Analysis

Your household size for APTC purposes is one person, because you expect to file your 2014 federal income tax return with the tax status of single and claim no dependents.

When you submitted each of your applications to the Marketplace, you indicated an annual household income of \$93,725.00. This amount included \$31,875.00 in earned income; \$2,000.00 in business income; \$60,000.00 in taxable IRA distributions (\$2,500.00 twice a month), and tax deductions in the amount of \$150.00.

The Marketplace relied upon this information to determine your eligibility. A one-person household with an expected household income of \$93,725.00 is at

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815.71% of the FPL. The maximum income amount for APTC eligibility for a one-person household is \$45,960.00 (400.00% FPL).

Since your application attested an income that exceeded the allowable maximum amount to qualify for a tax credit, you were appropriately found to be ineligible for APTC as of August 6, 2014.

During your hearing, you credibly testified that during 2014, you expect to receive \$7,000.00 in earned income, no business income, and \$60,000.00 in taxable IRA distributions (\$2,500.00 twice a month) and to claim no deductions.

Therefore, credible evidence of record supports a finding that your expected 2014 household income is \$67,000.00. Since this maximum income level for APTC eligibility for a one-person household is \$45,960.00, you remain ineligible for APTC.

Accordingly, the August 6, 2014 eligibility determination is modified to reflect that, with a household income of \$67,000.00, you remain eligible to enroll in a qualified health plan in the Marketplace without a subsidy.

Decision

The August 6, 2014 eligibility determination is MODIFIED to state that, with a household income of \$67,000.00, you are eligible to enroll in a qualified health plan without a subsidy; qualify to select a health plan outside of the open enrollment period; and have until October 29, 2014 to confirm your plan selection.

Effective Date of this Decision: October 15, 2014

How this Decision Affects Eligibility

This decision does not change your eligibility.

You are not eligible for financial assistance because your household income exceeds the allowable limit.

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:

- Submit 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 this Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the New York Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of this 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.

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 August 6, 2014 eligibility determination is MODIFIED to state that, with a household income of \$67,000.00, you are eligible to enroll in a qualified health plan without a subsidy; qualify to select a health plan outside of the open

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enrollment period; and have until October 29, 2014 to confirm your plan selection.

This decision does not change your eligibility.

You are not eligible for financial assistance because your household income exceeds the allowable limit.

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] [REDACTED]
[REDACTED]