



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

Notice of Decision

Decision Date: November 10, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000801

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 12, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 7, 2014 eligibility determination.

The attached Decision, rendered after that hearing, is issued by the Appeals Unit of 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).

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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000801

[REDACTED]
[REDACTED], [REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that you are eligible for an advance premium tax credit of up to \$219.00 per month and, if enrolled in a silver-level qualified health plan, for cost-sharing reductions as of August 6, 2014?

Procedural History

The Marketplace received your application on March 28, 2014.

On August 6, 2014, your application was resubmitted. The Marketplace redetermined your eligibility and prepared a preliminary determination that you were eligible for an advance premium tax credit of up to \$219.00 per month and, provided you enrolled in a silver-level qualified health plan, for cost-sharing reductions.

On August 6, 2014, you spoke with a representative with the Marketplace's Customer Service Unit and appealed that determination.

On August 7, 2014, the Marketplace issued a written eligibility determination consistent with the August 6, 2014 preliminary determination. The determination also stated that you were not eligible for Medicaid because your household income of \$30,160.00 was over the allowable income limit of \$21,707.00.

On August 7, 2014, the Marketplace also issued a letter confirming that you had chosen a silver level qualified health plan (Fidelis Care Silver) and your monthly

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premium responsibility, after the advance premium tax credit of \$219.00 was applied, would be \$171.15.

On September 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 held open for up to fifteen days to allow you the opportunity to submit four weeks of paystubs to provide additional information on your current income.

As of September 30, 2014 at 9:00 a.m., the Marketplace's Appeals Unit had not received any documents from you. Therefore, the record was closed. This decision is based on the record as developed at the hearing of September 12, 2014.

Findings of Fact

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

- 1) You are single and reside with your brother, who is your dependent, in Kings County, New York.
- 2) You are the only person in your household seeking health insurance through the Marketplace.
- 3) You plan on filing your 2014 taxes using the tax filing status of Head of Household with a Qualifying Individual.
- 4) On your August 6, 2014 application you stated that your expected 2014 income was \$30,160.00.
- 5) On September 12, 2014, you testified that you expect to earn \$28,000.00 this year. You testified that you have not worked overtime for several months and will not be eligible for sick time until you have worked for your employer for one year, which will be on October 17, 2014.
- 6) You testified that illness prevented you from working during the week before your hearing and on several days during August 2014. You further testified that you were not paid for the days you were out sick from work.

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 (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)).

The annual 2013 federal poverty level (FPL) for a two-person household is \$15,510.00 (78 Fed Reg 5182, 5183 (2013)).

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 150% but less than 200% of the 2013 Federal Poverty Level (FPL), the expected contribution is between 4.00% and 6.30% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR 155.300(a)).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her

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maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

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 a household income that does not exceed 250% 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

The matters at issue are whether the Marketplace properly determined that the maximum amount of your advance premium tax credit (APTC) was \$219.99 and properly determined you were eligible for cost-sharing reductions (CSR).

According to the record there are two people in your household, you and your dependent brother.

You reside in Kings County, where the second lowest cost silver plan available through the Marketplace for an individual costs \$370.53 per month.

On your August 6, 2014 application, you attested to an expected 2014 income of \$30,160.00, which is 194.46% of the 2013 FPL for a two-person household. At 194.46% of the FPL, the expected contribution to the cost of the health insurance premium is 6.04%, which equals \$151.93 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan for an individual in your county (\$370.53 per month) minus your expected contribution (\$151.93 per month), which equals \$218.60 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$219.00 per month as of August 6, 2014.

CSR is available to a person who has a household income no greater than 250% of the FPL. Since the household income on your application was 194.46% of the 2013 FPL, the August 7, 2014 eligibility determination correctly stated that you were eligible for CSR while enrolled in a silver-level qualified health plan through the Marketplace.

Since the August 7, 2014 eligibility determination correctly stated you were eligible for up to \$219.00 per month of APTC and eligible for CSR while enrolled in a silver-level QHP, it is correct and is AFFIRMED.

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However, you credibly testified during your hearing that you now expect your 2014 income to be lower than the attested expected income listed on your application. You explained that you have worked less overtime than previously, that you have taken unpaid sick leave, and that you expect to earn \$28,000.00 during 2014.

Since you have updated your expected income, your case is returned to the Marketplace to redetermine your eligibility for financial support based on that information. The Marketplace is directed to determine eligibility for a two-person household with an expected income of \$28,000.00.

Decision

The Marketplace's August 7, 2014 eligibility determination is AFFIRMED.

This case is returned to the Marketplace to redetermine eligibility for a two-person household with an expected 2014 household income of \$28,000.00.

Effective Date of this Decision: November 10, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit up to \$219.00 per month.

However, your case is returned to the Marketplace for a redetermination of your eligibility, using a two-person household and an expected income for 2014 of \$28,000.00.

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:

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- 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
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- By fax: 1-855-900-5557

Summary

The August 7, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility. You remain eligible to receive an advance premium tax credit up to \$219.00 per month.

However, your case is returned to the Marketplace to redetermine your eligibility, using a two-person household and an expected income for 2014 of \$28,000.00.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]