



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

Notice of Decision

Decision Date: November 21, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP00000000808

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 15, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace August 8, 2014 eligibility determination.

The enclosed 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).

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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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 7, 2014, you and your husband were eligible to receive an advance premium tax credit of up to \$275.00 per month but not eligible for cost-sharing reductions or Medicaid?

Procedural History

The Marketplace received your application on July 29, 2014.

On August 7, 2014, the Marketplace received your modified application and made a preliminary redetermination. You and your husband were found eligible to receive an advance income tax credit of up to \$275.00 per month but not eligible for cost-sharing reductions. You spoke with a representative in the Marketplace's Customer Service Unit and submitted an appeal because your household income had changed during 2014 and you wanted the determination based on your new income.

On August 8, 2014, the Marketplace issued an eligibility redetermination consistent with its August 7, 2014 preliminary redetermination. It said you and your husband were eligible to receive an advance premium tax credit of up to \$275.00, but remained ineligible for cost-sharing reductions and Medicaid because your projected household income exceeded the allowable income limits for each of these programs.

On September 15, 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 and your husband reside with your two daughters in Nassau County, New York.
- 2) You and your husband plan on filing your 2014 income tax return using the tax filing status of married filing jointly and claiming your two daughters as dependents.
- 3) On the August 7, 2014 application, your husband's earned income for the upcoming year is \$60,500.00 and your income is \$3,000.00.
- 4) You have a start-up company and expect to take no more than \$3,000.00 as income from it during 2014.
- 5) Your husband previously expected an annual income of \$60,500.00 from his employment, but that employment ended during March 2014. He received \$15,000.00 in earning for the first three months of 2014. He then received 20 weeks' worth severance payments, at a rate of one \$3,491.00 check every 4 weeks.
- 6) Your health insurance through the previous employer ended as of August 31, 2014.
- 7) Your husband began working for another employer near the beginning of July 2014 and is paid \$750.00 gross per week.

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

Applicable Law and Regulations

A person may qualify for advance premium tax credit (APTC) if his or her household modified adjusted gross income (MAGI) is between 138% and 400% of the 2013 federal poverty level (FPL) (45 CFR § 155.305(f)). For a four-person household, the 2013 FPL is \$23,550.00 (78 Fed Reg 5182, 5183 (2013)).

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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

(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. For household income from 200% to 250% of the federal poverty level (FPL), the expected contribution is from 6.30% to 8.05% of the household income (26 CFR § 1.36B-3(g)(2)).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested. (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2013 FPL, which is \$23,550.00 for a four-person household (78 Fed. Reg. 5182, 5183).

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 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 is eligible to enroll in a qualified health plan (QHP) and:

- 1) is eligible for an advanced premium tax credit (APTC),
- 2) has a household income less than 250% of the FPL, and
- 3) enrolls in a silver level QHP through the Marketplace

(45 CFR § 155.305(g)).

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage). 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 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)).

Legal Analysis

The matters at issue are whether the Marketplace properly determined that the maximum amount of your advance premium tax credit (APTC) was \$275.00 per month and that you were not eligible for cost-sharing reductions.

According to the record there are four people in your household, you, your husband, and your two daughters.

You reside in Nassau County, where the second lowest cost silver plan available through the Marketplace for a couple costs \$730.57 per month.

The expected 2014 household income stated on your August 7, 2014 application is \$63,500.00 (\$60,500.00 for your husband and \$3,000.00 for you). An income of \$63,500.00 is 269.64% of the 2013 FPL for a four-person household. At 269.64% of the FPL, the expected contribution of the health insurance premium is 8.62% of income, which equals \$456.12 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest silver plan in your county for a couple (\$730.57 per month) minus your expected contribution (\$456.12 per month), which equals \$274.45 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$275.00 per month on the information provided.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 269.64% of the FPL, you are not eligible for cost-sharing reductions.

Since the August 8, 2014 determination correctly stated that the amount of advance premium tax credit that can be authorized is \$275.00 using the projected household income amount of \$63,500.00, it is AFFIRMED as being correct when made.

However, the Hearing Officer learned through your sworn testimony that because of changes in your husband's employment and your expected income from your start-up business, the household income you expect for 2014 is not the same as that stated on your August 7, 2014 application.

The record supports a finding that your husband's expected 2014 income is \$51,955.00: \$15,000.00 earned between January and March; \$17,455.00 in severance payments (five checks for \$3,491.00 each), and \$19,500.00 from the job that started at the beginning of July (26 weeks of wages at a rate of \$750.00 per week). You testified that you expect income of \$3,000.00 from self-employment. Therefore, for purposes of this decision, your expected 2014 household income is \$54,955.00.

Since credible updated information is available on your income, your case is being returned to the Marketplace to redetermine your eligibility based on a four-person household and an expected household income for 2014 of \$54,955.00.

Decision

The August 8, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 21, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility, but it does return your case to the Marketplace for a redetermination.

The Marketplace will redetermine your household's eligibility based on a four-person household with an expected household income for 2014 of \$54,955.00.

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 additional information and an application.

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:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 8, 2014 eligibility determination is AFFIRMED.

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The case is being returned to the Marketplace for a redetermination of your eligibility based on a four-person household and an expected household income for 2014 of \$54,955.00.

The Marketplace will issue a new redetermination.

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 additional information and an application.

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]