



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

Notice of Decision

Decision Date: October 1, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000819

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

Dear [REDACTED],

On September 11, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 7, 2014 and August 14, 2014 eligibility determinations.

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 letter.

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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NY State of Health Number: [REDACTED]
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Issue

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

Did the Marketplace properly determine your eligibility for financial assistance?

Procedural History

The Marketplace received your application for health insurance on July 9, 2014.

On July 10, 2014, the Marketplace issued an eligibility determination that stated you were eligible for \$134.00 per month in advance premium tax credit (APTC). The notice also stated that you were not eligible for cost-sharing reductions because your household income of \$32,000.00 was over the allowable income limit of \$28,725.00, and that you were not eligible for Medicaid because your household income was over the allowable income limit of \$16,105.00.

On August 6, 2014, the income in your application was updated to \$41,256.00 and your eligibility was rerun.

On August 7, 2014, an eligibility determination notice was issued. That notice stated that you were temporarily eligible for \$44.00 per month in APTC however, more information was needed. The notice requested that you submit proof of income in order to verify your income amount.

On August 8, 2014, you spoke with the Marketplace's Customer Service Unit and appealed the August 7, 2014 eligibility determination.

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On August 9, 2014, you faxed in the requested income documentation and on August 13, 2014, your income was updated to \$42,530.00 based on the documentation you submitted.

On August 14, 2014, an eligibility determination was issued which stated that you were eligible for \$34.00 per month in APTC. The notice also stated that you were not eligible for cost-sharing reductions because your household income of \$42,530.00 is over the allowable income limit of \$28,725.00, and that you were not eligible for Medicaid because your household income was over the allowable income limit of \$16,105.00.

On September 11, 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 lost your job on June 30, 2014. Your employer sponsored health insurance also ended that same day.
- 3) You testified and provided evidence that you received your last paycheck from your job on June 30, 2014. The check was for the gross pay amount of \$2,719.50.
- 4) You testified that as of June 30, 2014, your year-to-date income from your job was \$32,000.00; your paystub indicated that your year-to-date earnings as of June 30, 2014 were \$32,714.03.
- 5) You testified and provided evidence that you applied for unemployment benefits on June 30, 2014. You were approved for a gross pay weekly amount of \$405.00 for 26 weeks.
- 6) You testified and provided evidence that you received your first check from unemployment on July 15, 2014. The check was for a gross pay amount of \$303.75. You further testified that this check was prorated for a four day week and that is why it was less than the \$405.00 weekly amount you were approved for.
- 7) You testified and provided evidence that you received unemployment benefit checks on July 22, 2014 and July 29, 2014. The amount of these checks were \$405.00 each.

- 8) You testified that the only income you have received since July 1, 2014 is from unemployment benefits.
- 9) You testified that the amount of income you entered into your application on August 7, 2014 did not contain the entire amount of unemployment benefits you expect to receive for the 2014 tax year.
- 10) You testified and provided proof that you expect to receive \$10,530.00 from Unemployment Benefits in 2014. However, a review of the documentation shows that for the 2014 calendar year (not the unemployment benefits year), you will receive no more than \$10,023.75.
- 11) You currently reside in Kings 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 (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)).

For a one-person household, for the purposes of calculating APTC, the annual 2013 FPL is \$11,490.00 (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).

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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 300% but less than 400% of the FPL, the expected contribution is 9.5% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

Cost sharing reductions (CSR) are available to a person who is eligible to enroll in a QHP and:

- 1) is eligible for an APTC;
- 2) has a household income less than 250% of the FPL, and
- 3) enrolls in a silver level health plan

(45 CFR § 155.305(g)).

Medicaid is provided through the Marketplace to adults who meet all of the following criteria: (1) are age 19 or older and under age 65; (2) are not pregnant; (3) are not entitled to or enrolled for Medicare benefits; (4) are not otherwise eligible for and enrolled for mandatory coverage under Medicaid; and (5) have household income that is at or below 138% of the federal poverty level, including the 5% disregard for household income where applicable (42 CFR § 435.119(b); 42 CFR § 435.603(d)).

Unemployment benefits are subject to federal income taxation (see IRS Publication 525, Taxable and Nontaxable Income).

Legal Analysis

The only matter at issue is whether the Marketplace determined the correct amount of financial assistance you are eligible for.

The August 7, 2014 eligibility determination was prepared based on an incorrect expected yearly income. You provided evidence that you received \$32,714.03 from your job, and you may receive up to \$10,023.75 in unemployment benefits in 2014. This results in a total annual expected income in 2014 of \$42,737.78. The August 7, 2014 eligibility determination was based on an expected annual income of \$41,256.00. Since it was based on an incorrect income amount, we must RESCIND that determination.

The August 14, 2014 eligibility determination was based on an expected annual income of \$42,530.00. It too was based on a slightly incorrect income amount, and is RESCINDED.

Therefore, we will analyze your eligibility for APTC based on the correct income of \$42,737.78.

According to the record, you expect to file as single on your tax return for 2014 and to claim no dependents. Therefore, you are in a household of one person.

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

Annual household income of \$42,737.78 equals 371.96% of the 2013 FPL for a one-person household. At 371.96% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$338.34 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$370.53 per month) minus your expected contribution (\$338.34 per month), which equals \$32.19 per month. Therefore, rounding to the nearest dollar, you would be eligible for APTC up to \$32.00 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 371.96% of the FPL, you were correctly found ineligible for cost sharing reductions.

However, at the hearing you testified that your 2014 expected annual household income no longer reflects your current monthly income situation. In July of 2014, the month you applied for health insurance, you received three payments of unemployment benefits. Those checks were in the amount of \$303.75, \$405.00 and \$405.00.

Therefore, your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on a household of one person with a monthly income of \$1,113.75 from July of 2014, the month you first applied for financial assistance.

Decision

The August 7, 2014 and August 14, 2014 eligibility determinations are RESCINDED because they used the incorrect amount for your expected annual income.

However, your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on your monthly income from July of \$1,113.75 and a household of one person.

Effective Date of this Decision: October 1, 2014

How this Decision Affects Your Eligibility

The August 7, 2014 and August 14, 2014 eligibility determinations are RESCINDED because they used the incorrect amount for your expected annual income.

However, your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on your monthly income from July of \$1,113.75 and a household of one person.

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 August 7, 2014 and August 14, 2014 eligibility determinations are **RESCINDED** because they used the incorrect amount for your expected annual income.

However, your case is being **RETURNED** to the Marketplace for a redetermination of your eligibility for financial assistance based on your monthly income from July of \$1,113.75 and a household of one person.

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]