



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

Notice of Decision

Decision Date: December 3, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000897

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 22, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 21, 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 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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Issue

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

Did the Marketplace properly determine that as of August 21, 2014, you were eligible for up to \$232.00 per month in advance premium tax credit and eligible to receive cost-sharing reductions provided that you enroll in a silver-level health plan?

Procedural History

The Marketplace received your application for health insurance on July 10, 2014.

On July 11, 2014, an eligibility determination notice was issued. That notice stated that you might be eligible for health insurance but that more information was needed to make a determination. You were asked to provide proof of disenrollment from any government sponsored health coverage.

An August 21, 2014 notice of eligibility redetermination states that you are eligible to enroll in a qualified health plan (QHP), receive up to \$232.00 per month in advance premium tax credit (APTC), and receive cost-sharing reductions (CSR) provided you are enrolled in a silver-level health plan.

On August 27, 2014, you spoke with the Marketplace's Customer Service Unit and appealed the amount of APTC that had been authorized.

On September 22, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and it was left open for 15 days to give you the opportunity to submit

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additional evidence. Shortly after the hearing on September 22, 2014, you faxed in the requested evidence to the Marketplace's Appeals Unit. The record is now closed.

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 Head of Household and will claim one dependent, your daughter, on that tax return.
- 2) Your application states that your expected annual income for 2014 is \$29,069.00. You testified that \$29,069.00 is the amount that you claimed on your 2013 tax return.
- 3) You testified that you believe your annual income for 2014 will actually be lower than \$29,069.00.
- 4) You testified that the amount of income you receive in a week is not a set amount. This is because you work different hours and overtime in different weeks.
- 5) You provided paystubs that you received in July that show for the period of 6/25/2014 to 7/1/2014 you received \$618.09 in gross pay, for the period of 7/02/2014 to 7/08/2014 you received \$616.38 in gross pay, for the period of 7/09/2014 to 7/15/2014 you received \$611.04 in gross pay, and for the period 7/16/2014 to 7/22/2014 you received \$572.42 in gross pay.
- 6) You provided paystubs that you received in August that show for the period of 7/23/2014 to 7/29/2014 you received \$584.25 in gross pay, for the period of 8/30/2014 to 8/05/2014 you received \$605.70 in gross pay, for the period of 8/06/2014 to 8/12/2014 you received \$627.07 in gross pay, for the period of 8/13/2014 to 8/19/2014 you received \$614.46 in gross pay, and for the period of 8/20/2014 to 8/26/2014 you received \$607.41 in gross pay.
- 7) You provided a paystub dated August 29, 2014, which states that your year to date gross income up until that point in time is \$20,418.19.
- 8) According to your Marketplace application, you reside in Queens 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 in the range of at least 150% but less than 200% of the 2013 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)).

For a two-person household, the 2013 FPL is \$15,510.00 (78 Fed Reg 5182, 5183 (2013)).

Cost-sharing reductions (CSR) are available only to a person who:

- 1) is eligible to enroll in a QHP through the Marketplace,

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- 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

The only matter at issue is whether the Marketplace correctly determined that the maximum amount of your advance premium tax credit (APTC) is \$232.00 per month.

According to the record, you are in a two-person household. This includes yourself and your daughter, whom you plan to claim as a dependent on your 2014 tax return.

The eligibility determination made on August 21, 2014 under review was based on an anticipated household income of \$29,069.00. This was the amount of expected 2014 income that was indicated on your July 10, 2014 application.

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$370.52 per month.

On the application you stated that your expected income for 2014 was \$29,069.00, which equals 187.42% of the 2013 FPL for a two-person household. At 187.42% of the FPL, the expected contribution to the cost of the health insurance premium is 5.72% of income, or \$138.56 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$370.52 per month) minus your expected contribution (\$138.56 per month), which equals \$231.96 per month. Therefore, the Marketplace, rounding to the nearest dollar, correctly computed your APTC to be \$232.00 per month on an expected-income basis.

Cost-sharing reductions are available to a person who has an annual expected household income no greater than 250% of the FPL. Since your annual household income is 187.42% of the FPL, you were correctly found eligible for cost-sharing reductions.

You testified that you believe your actual expected annual income for 2014 will be lower than the \$29,069.00 that was indicated in your application. You

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provided pay stubs to show that the amount of income you earn weekly varies slightly depending on the hours you work.

It is noted that apart from the weeks when you received sick leave pay, your gross pay per week was fairly consistent. The pay stub you received on August 29, 2014, gives your year-to-date income of \$20,418.19. This equals an average gross wage of \$583.38 per week for 35 weeks. Since the average of \$583.38 is based on such a long period of time, it compensates for week-to-week changes in pay and provides a good basis for an expected income for 2014. Although the two months of paychecks you provided average out to a weekly gross pay of \$606.31, which is slightly higher than the overall yearly average, the average for the pay checks up to and including June 26, 2014 is \$583.13, which is only slightly less than the overall average.

You did not provide any other evidence that could support a conclusion that your annual earnings will be significantly lower than the \$29,069.00 you entered on your application; if anything, the evidence would indicate that your annual earnings might be slightly higher.

Since there is no evidence to show that the advance premium tax credit that can be authorized on any expected income for 2014 would be materially greater than the credit that can be authorized on \$29,069.00 as previously authorized, any ultimate difference is more properly claimed when your actual earnings are reconciled on your 2014 individual federal income tax return.

Accordingly, the August 21, 2014 eligibility determination is AFFIRMED.

Decision

The August 21, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 3, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You are eligible for advance premium tax credit of up to \$232.00 per month and eligible for cost-sharing reductions.

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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- By fax: 1-855-900-5557

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Summary

The August 21, 2014 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

You are eligible for an advance premium tax credit of up to \$232.00 per month and eligible for cost-sharing reductions.

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]