



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

Notice of Decision

Decision Date: January 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001026

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 22, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace’s September 18, 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001026

[REDACTED]
[REDACTED]
[REDACTED]

Issues

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

Did the Marketplace properly determine that you were eligible to receive up to \$792.00 monthly of advanced premium tax credit and to receive cost-sharing reductions as of September 18, 2014?

Procedural History

On September 4, 2014, you submitted your initial application for health insurance. On September 17, 2014 you reapplied for health insurance through the Marketplace.

On September 18, 2014, the Marketplace issued two notices of eligibility determination. The first notice states that [REDACTED] is eligible to enroll in Child Health Plus with a total monthly premium of \$9.00. The second notice states that [REDACTED] are eligible to enroll in a qualified health plan, share up to \$792.00 monthly of advance premium tax credit, and receive cost-sharing reductions.

On September 29, 2014, you spoke to the Marketplace's Account Review Unit and submitted an appeal request.

On October 22, 2014, you appeared for your telephone hearing. Testimony was taken at the hearing. The record was held open until October 27, 2014 to allow you to submit additional documentation.

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On October 27, 2014, you submitted your Unemployment Insurance Benefit (UIB) claim history. The evidence was marked as Appellant's Exhibit C and made part of the record, and the record was 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 federal income tax return as Married Filing Jointly with your spouse, [REDACTED].
2. You testified that you plan to claim your two children, [REDACTED] [REDACTED] as dependents on your 2014 federal income tax return.
3. According to your September 17, 2014 Marketplace application, your 2014 expected income is \$47,297.44.
4. Your October 27, 2014 unemployment insurance benefits claim history indicates that fourteen weekly benefit claims of \$361.00 were released between January 5, 2014 and April 6, 2014 (Appellant Exhibit C).
5. You testified that you began working at [REDACTED] [REDACTED] on April 16, 2014.
6. You submitted two biweekly Earnings Statements from [REDACTED] [REDACTED]. The statement with the pay date August 15, 2014 indicates gross pay of \$1,286.08 and year-to-date gross earnings of \$11,089.28. The statement with the pay date August 29, 2014 indicates gross pay of \$1,236.80 and year-to-date gross earnings of \$12,326.08 (Appellant Exhibit A).
7. You testified that you typically work 80 hours biweekly at the rate of \$16.00 per hour.
8. According to your September 17, 2014 Marketplace application, [REDACTED] [REDACTED] 2014 expected yearly income is \$14,500.00. The application indicates expected earned income of \$17,000.00 and a student loan interest deduction of \$2,500.00.
9. You testified that [REDACTED] [REDACTED] began working at [REDACTED] [REDACTED] during June 2014.
10. You submitted four weekly Earning Statements from [REDACTED] [REDACTED]. The statement with check date August 20, 2014 indicates gross earnings of \$800.00 and year-to-date earnings of \$9,920.00. The

statement with check date August 27, 2014 indicates gross earnings of \$480.00 and year-to-date earnings of \$10,400.00. The statement with check date September 3, 2014 indicates gross earnings of \$480.00 and year-to-date gross earnings of \$10,880.00. The statement with check date September 10, 2014 indicates gross earnings of \$800.00 and year to date earnings of \$11,680.00 (Appellant Exhibit B).

11. You testified that [REDACTED] typically earns \$800.00 on a weekly basis.
12. You testified that [REDACTED] have a 2014 expected income of \$0.00.
13. According to your Marketplace application, you reside in Nassau County, New York.

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

Applicable Law and Regulations

Advance Premium Tax Credit

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 2013 Federal poverty level (FPL); (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 QHP; 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 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 200% but less than 250% of the federal poverty level, the expected contribution is between 6.30% and 8.05% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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

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 APTC, (3) is expected to have an annual 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

At issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$792.00 per month.

In the application that was submitted on September 17, 2014, you attested to an expected yearly income of \$47,297.44, and the eligibility determination relied upon that information.

According to the record there are four members in your tax household, consisting of yourself, your husband and your two dependent children.

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You reside in Nassau County, where the second lowest cost silver plan available for a four person household through the Marketplace costs \$1041.06 per month.

An annual income of \$47,297.44 is 200.84% of the 2013 federal poverty level (FPL) for a four-person household. At 200.84% of the FPL, the expected contribution to the cost of the health insurance premium is 6.33% of income, or \$249.49 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for a family of four in your county (\$1,041.06 per month) minus your expected contribution (\$249.49 per month), which equals \$791.57 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$792.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$47,297.44 is 200.84% of the 2013 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

However, at the time of your hearing and based on your credible testimony and documents submitted, \$47,297.44 no longer represents your expected 2014 yearly income.

On October 27, 2014, you faxed your unemployment insurance benefit claim history dated October 27, 2014. The claim history indicates that fourteen weekly benefit claims of \$361.00 were authorized from January 5, 2014 until April 6, 2014 (Appellant Exhibit C). According to this evidence, you collected \$5,054.00 in unemployment insurance benefits in 2014.

You testified that you began working at [REDACTED] on April 16, 2014, typically work 80 hours every two weeks, and earn \$16.00 per hour. The credible evidence of record indicates that you would expect to earn \$23,680.00 from [REDACTED] in 2014 (18.5 biweekly checks of \$1280.00 each).

Based on your credible testimony and documents submitted, your expected 2014 income is \$28,734.00.

According to your September 17, 2014 Marketplace application, [REDACTED] [REDACTED] 2014 expected yearly income is \$14,500.00. The application indicates expected earned income of \$17,000.00 and student loan interest deduction of \$2,500.00. However, based on your credible testimony and documents submitted, this does not accurately reflect his expected 2014 income.

You credibly testified that [REDACTED] began working at [REDACTED] in June 2014 and submitted four weekly Earning Statements from [REDACTED]. The statement with check date August 20, 2014 indicates gross earnings of \$800.00 and year-to-date earnings of \$9,920.00. The statement with check date August 27, 2014 indicates gross earnings of \$480.00 and year-to-date earnings of \$10,400.00. The statement with check date September 3, 2014 indicates gross earnings of \$480.00 and year-to-date gross earnings of \$10,880.00. The statement with check date September 10, 2014 indicates gross earnings of \$800.00 and year to date earnings of \$11,680.00 (Appellant Exhibit B).

You credibly testified that [REDACTED] typically earns \$800.00 each week. The most recent year-to-date income on his Earning Statement (\$11,680.00), added to his expected income for the balance of 2014, \$12,800.00 (16 weeks at \$800.00 per week), equals \$24,480.00. After subtracting \$2,500.00 for his expected student loan interest deduction [REDACTED] expected 2014 income is \$21,980.00.

You credibly testified that [REDACTED] have a 2014 expected income of \$0.00.

According to the credible evidence of record, your expected 2014 household income is \$50,714.00. Since the premium tax credit that can be authorized on an expected income of \$50,714.00 is not materially different than the credit that can be authorized on \$47,297.00, that difference is properly reconciled on your 2014 federal income tax return.

Decision

The September 17, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 21, 2015

How this Decision Affects Your Eligibility

You remain eligible to receive up to \$792.00 monthly of advance premium tax credit and cost-sharing reductions.

Any difference between the tax credit that was based on your 2014 expected income and the tax credit you can claim based on your actual 2014 income should be reconciled on your 2014 federal income tax return.

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.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 17, 2014 eligibility determination is **AFFIRMED**.

You remain eligible to receive up to \$792.00 monthly of advanced premium tax credit and cost-sharing reductions.

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Any difference between the tax credit that was based on your 2014 expected income and the tax credit you can claim based on your actual 2014 income should be reconciled on your 2014 federal income tax return.

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]