



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

Notice of Decision

Decision Date: January 26, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001065

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On November 14, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 23, 2014 eligibility determination.

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 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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[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that, as of December 16, 2013, [REDACTED] and [REDACTED] were eligible for up to \$528.00 per month in advance premium tax credit?

Procedural History

On December 16, 2013, the Marketplace received your application for health insurance for you and your spouse.

On December 23, 2013, the Marketplace issued an eligibility determination notice. It stated that, with a household income of \$28,600.00, you and your spouse were eligible to enroll in a qualified health plan with up to \$528.00 per month in advance premium tax credit. It also stated that you were eligible for cost-sharing reductions if you enrolled in a silver-level plan, and that you were not eligible for Medicaid.

On October 27, 2014, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as it did not approve an advance premium tax credit of more than \$528.00.

On November 14, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, translation services were provided by Spanish Interpreter [REDACTED]. The record was developed during the hearing and was left open for 15 days to allow you to submit supporting evidence.

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The Marketplace's Appeals Unit received your supporting documentation on November 20, 2014, which included four weeks of paystubs for your spouse and proof of your various monthly expenses. Your evidence was marked collectively as Appellant's Exhibit A and incorporated into the record. The record was closed on November 25, 2014.

Findings of Fact

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

- 1) You testified that you expect to file your 2014 tax return jointly with your spouse and do not expect to claim any dependents.
- 2) You testified that your spouse is the only person in your household who is currently employed.
- 3) According to your December 16, 2013 application, you attested to a household income of \$28,600.00. At the hearing, you confirmed that you expect your income to be about the same as what you attested to in your application. You also testified that you do not have any other sources of income.
- 4) The record contains four of your husband's paystubs from [REDACTED]. According to these paystubs, your husband had gross earnings of \$558.30 on October 6, 2014; \$579.00 on October 10, 2014; \$595.20 on October 20, 2014; and \$570.00 on October 27, 2014. (Appellant's Exhibit A).
- 5) You currently reside in Dutchess County, New York.
- 6) You testified that you cannot afford an insurance premium on your current income after paying your other living expenses.

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 and (1) expects to have a household income between 138% and 400% of the federal poverty level (FPL); (2) expects to file a

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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), 435.911(b)(1), 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 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)).

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 \$15,510.00 for a two-person household (78 Fed. Reg. 5182, 5183 (2013)).

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a Qualified Health Plan (QHP). 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)).

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 information and an application.

Legal Analysis

The only matter at issue is whether you and your spouse were eligible for an advance premium tax credit of \$528.00 per month as of December 23, 2013.

In the application that was submitted on December 16, 2013, you attested to an expected yearly income of \$28,600.00, and the eligibility determination relied upon that information.

According to the record, you expect to file jointly with your spouse on your tax return for 2014 and do not expect to claim any dependents. Therefore, you are in a two-person tax household.

You reside in Dutchess County, where the second lowest cost silver plan that is available through the Marketplace for a couple during 2014 costs \$660.82 per month.

An annual household income of \$28,600.00 equals 184.4% of the 2013 federal poverty level for a two-person household. At 184.4% of the federal poverty level, the expected contribution to the cost of the health insurance premium is 5.58% of your income, or \$132.99 per month.

The maximum amount of advance premium tax credit that can be awarded equals the cost of the second lowest cost silver plan in your county (\$660.82 per month) minus your expected contribution (\$132.99 per month), which equals \$527.83 per month. Therefore, the Marketplace correctly computed your advance premium tax credit, to the nearest dollar, to be \$528.00 per month.

You testified that you may not be able to afford to pay your health insurance premium. 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 information and an application.

Decision

The December 23, 2013 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 26, 2015

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How this Decision Affects Your Eligibility

You and your spouse remain eligible to receive up to \$528.00 monthly in advance premium tax credit for the remainder of the 2014 calendar year.

This decision does not affect your eligibility for the 2015 calendar year.

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
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Summary

The December 23, 2013 eligibility determination is AFFIRMED.

You and your spouse remain eligible to receive up to \$528.00 monthly in advance premium tax credit for the remainder of the 2014 calendar year.

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website (www.healthcare.gov).

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]