



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

Notice of Decision

Decision Date: December 31, 2014

[REDACTED]
Appeal Identification Number: AP000000000778

[REDACTED]
[REDACTED]
[REDACTED]
Dear [REDACTED]

On December 4, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 1, 2014 eligibility redetermination.

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).

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: December 31, 2014

[REDACTED]
Appeal Identification Number: AP000000000778

[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 [REDACTED] is eligible to receive up to \$257.00 per month of advance premium tax credit, eligible for cost-sharing reductions, but ineligible for Medicaid, as of July 31, 2014?

Procedural History

The Marketplace received your application for health insurance on July 25, 2014. In it, you attested to an expected yearly income of \$25,000.00.

On July 26, 2014, the Marketplace issued a notice of eligibility determination based on your July 25, 2014 application. It found you eligible to enroll in a qualified health plan (QHP); to receive up to \$239.00 per month of advance premium tax credit (APTC); and, if you selected a silver-level plan, to receive cost-sharing reductions (CSR). However, you were found ineligible for Medicaid.

On July 31, 2014, you submitted several revised applications to the Marketplace, in which you ultimately attested to a decrease of your expected yearly income to \$23,500.00.

That same day, the Marketplace prepared a preliminary determination based on your July 31, 2014 application. This preliminary determination found you eligible to receive up to \$257.00 per month of APTC.

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On July 31, 2014, you spoke with the Marketplace's Account Review unit and appealed the July 31, 2014 preliminary determination.

On August 1, 2014, the Marketplace issued a notice of eligibility redetermination that found you eligible to receive up to \$257.00 per month of APTC.

On October 7, 2014 and November 5, 2014, you submitted multiple documents to the Marketplace reflecting your financial obligations including: student loan statements, credit card bills, health care bills, and collection agency notifications.

On December 4, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide additional evidence to corroborate your testimony: (1) redacted bank statements showing income received from [REDACTED] during July and August of 2014; (2) statements from [REDACTED] indicating interest paid on student loans during 2014; and (3) a signed letter from [REDACTED] confirming that your employment ended on July 12, 2014. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by December 19, 2014.

Accordingly, the record was closed on December 19, 2014.

Findings of Fact

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

- 1) You testified and attested in your application that you are unmarried and have no children.
- 2) You testified that you expect to file a U.S. Income Tax return for 2014, file as "single," and claim no dependents.
- 3) You testified and attested in your application that you reside in Westchester County, New York.
- 4) You testified that you are seeking insurance though the Marketplace only for yourself.
- 5) You testified that as of your July 31, 2014 application, your expected annual income for 2014 was approximately \$23,500.00, which was based on (1) \$25,000.00 in earned income from [REDACTED] between January 1, 2014 and July 12, 2014 and (2) \$1,500.00 in claimed deductions relating to student loan interest. You further testified that

the information was accurately entered when you submitted your application to the Marketplace on July 31, 2014.

- 6) You testified that your employment was terminated by [REDACTED] on July 12, 2014 and that you have received no further income since that time.
- 7) You testified that you currently live with your mother and rely on family support to meet your financial obligations.
- 8) You testified that due to an ongoing medical condition and lack of income, you are unable to afford any insurance premiums available through the Marketplace.

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

Applicable Law and Regulations

Advanced 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 approved 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)).

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For household income in the range of at least 200% FPL but less than 250% FPL, the expected contribution is between 6.30% and 8.05% of the household income (26 CFR § 1.36B-3(g)(2)).

In an analysis of APTC and CSR 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 \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

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)).

Medicaid

Medicaid can be provided through the Marketplace to adults who: (1) are age 19 or older and under age 65; (2) are not pregnant; (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act; (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household, or \$972.50 per month (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR 155.300(a)). “The term ‘modified adjusted gross income’ means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1-36B-1(e)(2)).

There is no provision in the federal tax code or associated regulations that allows reduction of your MAGI by credit card bills, health care expenses, or collection agency recovery efforts.

Legal Analysis

The only matters at issue are whether, as of August 1, 2014, you were eligible for an advance premium tax credit (APTC) of up to \$257.00 per month, cost-sharing reductions (CSR), or Medicaid.

In the application that was submitted on July 31, 2014, you attested to an expected yearly income of \$23,500.00, which included (1) \$25,000.00 in earned income from ██████████, and (2) \$1,500.00 in claimed deductions relating to student loans. The eligibility determination relied upon that information.

You testified that in addition to your income from ██████████ on July 12, 2014 and your student loan deductions, you have incurred a great deal of debt from credit card bills, health care costs, and collections agency efforts as a result of your current medical condition. However, the Marketplace is not permitted to reduce your modified adjusted gross income (MAGI) by the amount of any of these previously incurred debts. Therefore, according to the credible evidence of record, your expected MAGI-based household income for 2014 is \$23,500.00.

According to the record you are the only person in your tax household.

You reside in Westchester County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$383.18 per month.

An annual household income of \$23,500.00 equals 204.53% of the 2013 FPL for a one-person household. At 204.53% of the 2013 FPL, the expected contribution to the cost of the health insurance premium is 6.46% of income, or \$126.51 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$383.18 per month) minus your expected contribution (\$126.51 per month), which equals \$256.67 per month.

Therefore, the Marketplace correctly computed your APTC, to the nearest dollar, to be \$257.00 per month.

Cost-sharing reductions (CSR) 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 204.53% of the 2013 FPL, the Marketplace correctly found you eligible for CSR.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, July 31, 2014, the relevant FPL was \$11,670.00 for a one-person household. Since \$23,500.00 is 201.37% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the Marketplace properly determined that as of August 1, 2014, you were eligible for up to \$257.00 per month of APTC, eligible for CSR, but ineligible for Medicaid coverage, the August 1, 2014 notice of eligibility determination is correct and is AFFIRMED.

While you testified at the hearing that the information contained in your July 31, 2014 application no longer reflects your current income situation, you did not produce the additional evidence for review by December 19, 2014 as directed by the Hearing Officer. Such evidence is needed to permit an analysis of your eligibility for Medicaid based on monthly earnings during the months of July and August of 2014.

Accordingly, the record as currently developed does not support returning your case to the Marketplace for redetermination of your eligibility.

Decision

The August 1, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 31, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You continue to be eligible for up \$257.00 per month in advance premium tax credit and, if you select a silver-level plan, cost-sharing reductions.

You are not eligible for Medicaid.

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:

- 3) 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

- 4) 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 1, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You continue to be eligible for up \$257.00 per month in advance premium tax credit and, if you select a silver-level plan, cost-sharing reductions.

You are not eligible for Medicaid.

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]