



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: AP000000000899

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 25, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 28, 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).

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 31, 2014

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Appeal Identification Number: AP000000000899

Issue

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

Did the Marketplace properly determine that, as of August 27, 2014, you were ineligible for both Medicaid and cost-sharing reductions, but that you were eligible for an advance premium tax credit of up to \$23.00 per month?

Procedural History

The Marketplace received your application for health insurance on August 27, 2014 and made a preliminary eligibility determination that you were eligible for up to \$23.00 per month in advance premium tax credit (APTC).

On August 27, 2014, you spoke with the Marketplace's Account Review unit and appealed that determination.

On August 28, 2014, an eligibility determination notice was issued on your August 27, 2014 application. The notice stated that you were eligible for up to \$23.00 per month in APTC; however, you were not eligible for cost-sharing reductions or Medicaid because your household income of \$38,794.64 was over the allowable income limits for those programs.

On September 25, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and 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 federal income tax return as Single and will claim no dependents on that tax return.
- 2) You testified that you lost your job on July 18, 2014.
- 3) You testified that you received your last check from your job on July 18, 2014 for a gross pay amount of \$1,127.00.
- 4) You testified and provided evidence that you applied for unemployment benefits on July 21, 2014.
- 5) You testified that you were found eligible for \$405.00 weekly in unemployment benefits.
- 6) You testified that you received your first unemployment benefit check on August 22, 2014 in the amount of \$1,215.00 for your first three weeks of benefits.
- 7) You testified that you also received a check on August 25, 2014 for the amount of \$405.00. Since August 25, 2014, you have been receiving this amount in unemployment benefits per week.
- 8) Your August 27, 2014 application lists an annual expected income of \$38,794.64. This includes \$28,264.64 in earned income and \$10,530.00 in expected unemployment benefits for the year.
- 9) You testified that the earned income amount from your job, \$28,264.64, is correct but that \$10,530.00 is incorrect for unemployment benefits. You explained that this number is too high because it represents the total benefits you would be eligible for during your entire benefit year, not the amount of benefits you could actually receive in 2014.
- 10) You currently reside in Orange County.

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

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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 (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 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 household income (26 USC § 36B(b)(3)(A)).

For household income in the range of at least 300% but less than 400% of the 2013 FPL, the expected contribution is 9.5% 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 \$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 advanced premium tax credits, (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

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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 that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 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 (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 March 19, 2014).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$23.00 per month.

In the application submitted on August 27, 2014, you attested to an expected yearly income of \$38,794.64, and the eligibility determination relied upon that information.

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

You reside in Orange County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$330.41 per month.

An annual income of \$38,794.64 is 337.64% of the 2013 federal poverty level (FPL) for a one-person household. At 337.64% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$307.12 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 an individual in your county (\$330.41 per month) minus your expected contribution (\$307.12 per month), which equals \$23.29 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$23.00 per month, based on your attested income.

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 \$38,794.64 is

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337.64% of the 2013 FPL, the Marketplace correctly found you to be ineligible for cost-sharing reductions.

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 138.0% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,670.00 for a one-person household. Since \$38,794.64 is 332.43% 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 August 28, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$23.00 per month, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, the calculation of your income included an amount of unemployment benefits that you expect to receive for the 2014 tax year of \$10,530.00. You testified that you believed you will receive less than that in 2014, and that the Marketplace used the total amount of benefits you are eligible for in a benefit year, instead of the amount of benefits you will actually receive in 2014.

You testified that you were approved for \$405.00 in unemployment benefits per week. You received your first check for the amount of \$1,215.00 on August 22, 2014. The amount of this check included the first three weeks of your August benefits. On Monday, August 25, 2014, you began to receive weekly benefits of \$405.00.

However, you did not submit a copy of you unemployment insurance benefit print-out from August 2014, which would support your testimony on when you received your unemployment insurance benefits payments and what the effective start date was for those payments. Moreover, the maximum weekly unemployment benefits rate was increased as of October 6, 2014 from \$405.00 to \$420.00 per week.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

To be eligible for Medicaid, you must meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,342.05 per month. Since you received \$1,620.00 in unemployment benefits during August 2014, you did not qualify for Medicaid on the basis of monthly income when you submitted your application.

Decision

The August 28, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 31, 2014

How this Decision Affects Your Eligibility

The August 28, 2014 eligibility determination is AFFIRMED.

Please note that this decision only applies to your eligibility for advance premium tax credits for use in a qualified health plan for the year 2014.

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

Summary

The August 28, 2014 eligibility determination is AFFIRMED.

Please note that this decision only applies to your eligibility for advance premium tax credits for use in a qualified health plan for the year 2014.

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]