



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

Notice of Decision

Decision Date: December 23, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000901

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Dear [REDACTED]

On October 6, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 14, 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 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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Issues

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

Did the Marketplace properly determine that, as of June 13, 2014, you were eligible for advance premium tax credits of up to \$250.00 per month and cost-sharing reductions if you enrolled in a silver level health plan, but not Medicaid?

Procedural History

The Marketplace received your application for health insurance on June 13, 2014.

On June 14, 2014, an eligibility determination notice was issued. That notice stated that you were temporarily eligible to enroll in a qualified health plan and to receive up to \$250.00 per month in advance premium tax credit (APTC). You were also found temporarily eligible for cost-sharing reductions (CSR) if you enrolled in a silver level health plan. You were found ineligible for Medicaid. You were asked to provide proof of citizenship documentation to the Marketplace in order to finalize your eligibility determination.

On July 22, 2014, you submitted a written appeal to the Marketplace's Account Review Unit.

On September 9, 2014, a Certificate of Naturalization was uploaded to your Marketplace account.

On October 6, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was left open for 15 days to allow you the opportunity to submit additional evidence of your income.

On October 20, 2014, you faxed to the Appeals Unit copies of paystubs dated September 5, 2014, September 12, 2014, September 19, 2104, and September 26, 2014. The record is now closed.

Findings of Fact

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

- 1) Your application indicates that you are single.
- 2) You testified that you plan on filing your 2014 tax return as Single and will claim no dependents on that tax return.
- 3) Your application states that you have an expected annual income of \$23,010.00. You testified that this figure was correct.
- 4) You testified that you are currently employed by a temp agency and that the hours you work can vary from week to week.
- 5) You provided evidence of your gross income for the month of September. You received \$521.50 on September 5, \$432.10 on September 12, \$521.50 on September 19, and \$536.40 on September 26 (Appellant's Exhibit 1).
- 6) You testified that you plan to continue working with your current employer until at least the end of the year, unless they hire someone else permanently for your position sooner.
- 7) You testified that you do not plan on taking any tax deductions on your 2014 tax return.
- 8) You testified and uploaded documentation to your Marketplace account to show that every month you incur a large number of expenses. Those expenses include \$944.67 in rent, \$17.14 for [REDACTED], and \$102.52 for [REDACTED], among others. You further testified that you believe these expenses should be taken into account when calculating your eligibility for financial assistance.
- 9) You testified that you reside in Queens County.

- 10) You testified that you would like information on how to apply for a hardship exemption because without more financial assistance you cannot afford a monthly health insurance premium.

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 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)).

Eligibility for APTC is based on the taxpayer's modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a)). Generally, MAGI is your adjusted gross income plus any non-taxable social security income, non-taxable interest income, and non-taxable foreign income that you receive (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)). "Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Living expense, such as rent and utilities, are not allowable deductions in computing adjusted gross income.

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 200% but less than 250% of the 2013 FPL, the expected contribution is between 6.30% and 8.05% of 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 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 § 435.603(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).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that person can show that he 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,

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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)).

Legal Analysis

The first issue is whether the Marketplace correctly found you were eligible for up to \$250.00 per month in advance premium tax credit (APTC).

In the applications that were submitted on June 13, 2014, you attested to an expected yearly income of \$23,010.00, and the eligibility determination under review relied upon that information.

However, you stated that your expenses for rent, utilities, and other living expenses should be taken into consideration when calculating your annual household income. Since the Internal Revenue Service rules do not allow these expenses to be deducted from the calculation of your adjusted gross income, they also cannot be deducted when the Marketplace computes your modified adjusted gross income for APTC purposes. Therefore, the Marketplace's decision not to deduct these expenses when calculating your APTC was correct, and your income for purposes of calculating your eligibility for APTC and cost-sharing reductions (CSR is \$23,010.00).

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

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

An annual income of \$23,010.00 is 200.26% of the 2013 federal poverty level (FPL) for a one-person household. At 200.26% of the FPL, the expected contribution to the cost of the health insurance premium is 6.31% of income, or \$120.99 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 (\$370.52 per month) minus your expected contribution (\$120.99 per month), which equals \$249.53 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$250.00 per month.

The second issue is whether or not the Marketplace correctly found you eligible for CSR.

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 \$23,101.00 is 200.26% of the 2013 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

The third issue is whether or not you were eligible for Medicaid.

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, the relevant FPL was \$11,670.00 for a one-person household. Since \$23,010.00 is 197.17% 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 June 14, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$250.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. During 2014, the financial standard for Medicaid is \$16,105.00 per year (138% of the FPL), which is \$1,343.00 per month. During September 2014, you received checks from your job in the amounts of \$521.50, \$432.10, \$521.50, and \$536.40. Therefore, your income for the month of September 2014 is \$2,011.50.

A monthly income of \$2,011.50 places you at 194.48% of the 2014 FPL for September 2014. Since this is higher than \$16,105.00 (138% of the FPL), you did not qualify for Medicaid on the basis of monthly income when your application was finalized by the Marketplace in September 2014.

You testified that you cannot afford to pay the monthly insurance premium even if you have an advance premium tax credit and cost-sharing reductions because your expenses exceed your income. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2014, you can consult the Federal marketplace website (www.healthcare.gov) for additional information and an application.

Decision

The June 14, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 23, 2014

How this Decision Affects Your Eligibility

You remain eligible for \$250.00 per month in advance premium tax credit.

You remain eligible for cost-sharing reductions provided you are enrolled in silver level health plan.

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:

- 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:
NY State of Health Appeals
P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The June 14, 2014 eligibility determination is AFFIRMED.

You remain eligible for \$250.00 per month in advance premium tax credit.

You remain eligible for cost-sharing reductions provided you are enrolled in silver level health plan.

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]