



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

Notice of Decision

Decision Date: January 20, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000995

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

Dear [REDACTED],

On October 10, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 19, 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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you were eligible to receive up to \$244.00 per month of advance premium tax credit?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

Did the Marketplace properly determine that you were ineligible for Medicaid?

Procedural History

The Marketplace received your initial application for health insurance on June 17, 2014.

On September 18, 2014, you submitted a modified application to the Marketplace, in which you attested to an expected yearly income of \$24,629.44.

That same day, the Marketplace prepared a preliminary redetermination based on your September 18, 2014 application. It found you eligible to receive up to \$244.00 per month of advance premium tax credit (APTC) and eligible for cost-sharing reductions. That determination was based, in part, on the attested household income of \$24,629.44.

On September 18, 2014, you spoke with the Marketplace's Account Review Unit and appealed the preliminary redetermination.

On September 19, 2014, the Marketplace issued a notice of eligibility redetermination, which found you eligible to enroll in a qualified health plan with up to \$244.00 per month of APTC, and, if you enrolled in a silver level plan, eligible for cost-sharing reductions. You were found not eligible for Medicaid because your income of \$24,629.44 was over the allowable limit for that program.

On October 10, 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 to give you an opportunity to submit documentation reflecting payments you received from [REDACTED] during September 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.

On October 14, 2014 and October 23, 2014, you provided the above referenced documents to the Appeals Unit by facsimile, and the record was closed.

Findings of Fact

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

- 1) In your application, you attested that you are not married.
- 2) You testified that you have two children who reside with you; however, you are not seeking insurance for them under your Marketplace account.
- 3) You are seeking health insurance through the Marketplace only for yourself.
- 4) You testified that you expect to file a U.S. Income Tax return for 2014, file as "single," and claim no dependents.
- 5) You reside in Westchester County, New York.
- 6) You testified that you were employed by [REDACTED] during 2014 until you voluntarily left this position on or about August 25, 2014. You further testified that you were unable to remain at this position because you began attending school on a full-time basis and [REDACTED] were unable to modify your working hours to accommodate your class schedule.

- 7) You testified that during your employment with [REDACTED] you received approximately \$20,031.44 in earned income. You further testified that you were issued your final paycheck by [REDACTED] prior to September 1, 2014.
- 8) You testified that you began working for [REDACTED] on or about August 12, 2014 and expect to remain employed there at least through the end of 2014.
- 9) You testified that during your employment with [REDACTED] in 2014 you expect to receive \$4,598.00.
- 10) You provided two paystubs from [REDACTED] to the Appeals Unit showing that during September 2014 you received a paycheck in the gross amount of \$214.50 on September 11 and a paycheck for the gross amount of \$236.50 on September 25. The paychecks are consistent with a biweekly pay schedule.

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)).

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 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 towards the cost of health insurance premiums for the 2014 tax year is set by federal law at 2% to 9.5% of income (26 USC § 36B(b)(3)(A)).

For annual 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 the household income (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 are available to a person who (1) is eligible to enroll in a qualified health plan 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 qualified health plan (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 FPL 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 by the US Department of Health and Human Services, March 19, 2014).

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Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for advance premium tax credit (APTC) of up to \$244.00 per month.

In the application that was submitted on September 18, 2014, you attested to an expected yearly income of \$24,629.44, and the eligibility determination relied upon that information.

According to the record, you are the only member of your tax household. You expect to file as single and to claim no dependents.

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 income of \$24,629.44 is 214.36% of the 2013 federal poverty level (FPL) for a one-person household. At 214.36% of the FPL, the expected contribution to the cost of the health insurance premium is 6.8% of income, or \$139.57 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 (\$383.18 per month) minus your expected contribution (\$139.57 per month), which equals \$243.61 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$244.00 per month.

The second issue is whether the Marketplace properly determined that you were eligible for cost-sharing reductions.

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 \$24,629.44 is 214.36% of the 2013 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined that you were not 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 (MAGI) 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 \$24,629.44 is 211.05% 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.

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Since the September 19, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$244.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, at the hearing you testified that your 2014 expected annual household income no longer reflects your current income situation and that you would like your financial eligibility to be reconsidered.

You credibly testified and provided evidence that you received \$451.00 in earned income for the month of September 2014, and had no other income. Therefore, your income for September 2014 is \$451.00.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Since the record suggests that the Marketplace calculated your September 19, 2014 eligibility by expected annual income, but not by monthly income, the case should be returned to the Marketplace for an eligibility determination on monthly income.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a one-person household in Westchester County, with a September 2014 income of \$451.00.

Decision

The September 19, 2014 eligibility determination is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$244.00 per month and, if you select a silver-level plan, eligible for cost-sharing reductions.

This case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household in Westchester County and a September 2014 income of \$451.00.

Effective Date of this Decision: January 20, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$244.00 per month and, if you select a silver-level plan, eligible for cost-sharing reductions.

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However, your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household in Westchester County and a September 2014 income of \$451.00.

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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 19, 2014 eligibility determination is AFFIRMED.

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You remain eligible for an advance premium tax credit of up to \$244.00 per month and, if you select a silver-level plan, eligible for cost-sharing reductions.

However, your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household in Westchester County and a September 2014 income of \$451.00.

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]
[REDACTED]