



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: AP000000001002

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

Dear [REDACTED],

On October 14, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s September 12, 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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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 for up to \$96.00 per month in advance premium tax credit as of September 11, 2014?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

Did the Marketplace properly determine that you were not eligible for Medicaid?

Procedural History

The Marketplace received your application for health insurance on September 11, 2014.

On September 12, 2014, an eligibility determination notice was issued. That notice stated that you were eligible to enroll in a qualified health plan and to receive up to \$96.00 per month in advance premium tax credit (APTC). You were found ineligible for cost-sharing reductions and Medicaid because your household income was over the allowable limits for those programs.

On September 23, 2014, you spoke with the Marketplace Account Review Unit and appealed that determination.

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On October 14, 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 tax return as Single and will claim no dependents on that tax return.
- 2) You testified that you do not plan on taking any deductions on your 2014 tax return.
- 3) In your application, you attested to an annual expected income of \$34,680.00. You testified that this amount is accurate.
- 4) You testified that you have many bills including rent, car payment, credit card payment, and other expenses. You further testified that these bills should be taken into account when calculating how much excess income you have to help pay for health insurance.
- 5) You testified that you reside in Queens County, New York.
- 6) You testified that without more financial assistance, paying a premium for health insurance through the Marketplace is unaffordable.

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), 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

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- 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 for 2014 is set by federal law at 2% to 9.5% of household income (26 USC § 36B(b)(3)(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).

For annual 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)).

Cost-Sharing Reductions

Cost-sharing reductions are available only 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 March 19, 2014).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income 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)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

Generally, gross income does not include “amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer)” (26 USC § 104(a)(3)).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan. 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 qualified health plan; (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 qualified health plan; 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 properly determined that you were eligible for advance premium tax credit (APTC) of up to \$96.00 per month.

In the application that was submitted on September 11, 2014, you attested to an expected yearly income of \$34,680.00, and the eligibility determination relied upon that information.

Eligibility for APTC and cost-sharing reductions is based on your expected annual income. During the hearing, you testified that the amount that is currently listed on your application, \$34,680.00, is correct. However, you stated that your expenses for rent, car payment, credit card payment, and other 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. Therefore, the Marketplace's decision not to deduct these expenses when calculating your APTC was and is correct, and your household income for purposes of calculating your eligibility was correctly determined to be \$34,680.00.

Since you plan on filing your taxes as Single, and claim no dependents on your 2014 tax return, you are in a one-person 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 household income of \$34,680.00 equals 301.83% of the 2013 FPL for a one-person household. At 301.83% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$274.55 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$370.52 per month) minus your expected contribution (\$274.55 per month), which equals \$95.97 per month. Therefore, rounding to the nearest dollar, you would be eligible for up to \$96.00 per month in APTC.

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

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Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 301.83% of the FPL, you were correctly found ineligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined that you were ineligible 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 \$34,680.00 is 297.17% 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 September 12, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$96.00 per month, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

You testified that you cannot afford to pay the monthly insurance premium even if you have an APTC 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 check the Federal Marketplace website (www.healthcare.gov) for an application.

Decision

The September 12, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 20, 2015

How this Decision Affects Your Eligibility

You remain eligible for \$96.00 per month in advance premium tax credits.

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. And does not affect any determination that was made after September 12, 2014.

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).

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 12, 2014 eligibility determination is **AFFIRMED**.

You remain eligible for \$96.00 per month in advance premium tax credits.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

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