



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

Notice of Decision

Decision Date: January 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001041

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 29, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 25, 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).

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Issue

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

Did the Marketplace properly determine that you are eligible to receive an advance premium tax credit of up to \$64.00 per month as of September 24, 2014?

Procedural History

The Marketplace received your application for health insurance on September 10, 2014, which you updated on September 24, 2014. That same day, the Marketplace prepared a preliminary eligibility redetermination and found that you were eligible to receive an advance premium tax credit (APTC) of up to \$64.00 per month.

On September 25, 2014, the Marketplace issued a notice of eligibility determination on your September 24, 2014 application. That notice said that you are eligible to enroll in a qualified health plan and, at an annual household income of \$42,837.00, entitled to up to \$64.00 per month in APTC. The notice also stated that you are not eligible for cost-sharing reductions or Medicaid because the household income you provided is over the allowable income limit for each of these programs.

On October 3, 2014, you called the Marketplace's Account Review Unit and appealed that determination.

On October 29, 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 and your husband reside together in Suffolk County, New York and have no dependents.
- 2) You plan on filing your 2014 tax return as married filing jointly and will not be claiming any dependents.
- 3) You testified that your annual household income will be comparable to your earnings for the past two years of \$42,430.00 per year.
- 4) Your Marketplace application shows your annual household income for 2014 is \$42,837.00.
- 5) You testified that you and your husband had health insurance through the Marketplace as a couple since January 1, 2014, and were receiving APTC of \$430.00 per month toward your monthly premiums through September 30, 2014. Your monthly premium contribution was \$344.29.
- 6) You testified that your husband became eligible for Medicare with coverage to begin November 1, 2014, and will pay \$179.00 per month toward his coverage.
- 7) You testified that you updated your application on September 24, 2014, in anticipation of having individual coverage for yourself through the Marketplace as of November 1, 2014.
- 8) You testified that, even with \$64.00 in APTC, you cannot afford to pay \$323.99 monthly for your health insurance and \$179.00 monthly toward your husband's Medicare plan.
- 9) You testified that you do not think it is fair to have to pay a monthly premium contribution of \$323.99 for one person, when your premium contribution for couple coverage was \$344.29 monthly.

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 the 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)).

A taxpayer's household income is the taxpayer's own MAGI plus the MAGI of all the other individuals in the taxpayer's family who are required to file a return for the tax year (26 USC § 36B(d); 26 CFR § 1.36B-1(e)).

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 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)).

For annual household income in the range of at least 250% but less than 300% of the 2013 FPL, the expected contribution is between 8.05% and 9.50% 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).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

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 MAGI 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).

Hardship 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 currently defers to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, you can consult the Federal Marketplace website (www.healthcare.gov) for information and an application.

Legal Analysis

The only matter currently at issue is the amount of the advance premium tax credit (APTC) to which you are eligible.

According to the record, your household consists of you and your husband. You expect to file as married filing jointly on your 2014 tax return and do not expect to claim anyone as a dependent. Therefore, you have a two-person tax household for purposes of this analysis and, under the law, both of your incomes are counted.

You reside in Suffolk County, where the second lowest cost silver plan for individual only coverage available through the Marketplace costs \$378.00 per month.

In your September 24, 2014 application, your expected income for 2014 was reported as \$42,837.00, which is 276.19% of the 2013 federal poverty level (FPL) for a two-person household. At 276.19% of the FPL, the expected contribution to the cost of the health insurance premium is 8.81% of your household income, or \$314.48 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$378.00 per month) minus your

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expected contribution (\$314.48 per month), which equals \$63.52 per month. Therefore, computed to the nearest dollar, the Marketplace correctly determined your APTC to be \$64.00 per month.

Although the annual household income of \$42,837.00 used by the Marketplace to calculate the monthly APTC differs slightly from your attested annual income at hearing of \$42,430.00; the difference in tax credits is minimal and can be reconciled by the IRS at the time of your 2014 tax return filing.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the 2013 FPL. Since your household income of \$42,837.00 is 276.19% of the 2013 FPL, the Marketplace correctly found that you were not eligible 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% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$15,730.00 for a two-person household. Since \$42,837.00 is 272.33% 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.

Even when considering a household income of \$42,430.00, your income is 269.74% of the applicable 2014 FPL, and you do not qualify for Medicaid.

Since the September 25, 2014 eligibility redetermination correctly found that you are eligible for up to \$64.00 per month of APTC, and not eligible for cost-sharing reductions or Medicaid, it is correct and is AFFIRMED.

However, you testified that you may not be able to afford to pay your health insurance premium and your husband's monthly Medicare contribution. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, you can consult the Federal Marketplace website (www.healthcare.gov) for more information and an application.

Decision

The September 25, 2014 eligibility redetermination is AFFIRMED.

Effective Date of this Decision: January 14, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You continue to be eligible to receive up to \$64.00 monthly of advance premium tax credit.

This decision has no effect on any Marketplace determination issued after September 25, 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.

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

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Summary

The September 25, 2014 eligibility redetermination is AFFIRMED.

This decision does not change your eligibility.

You continue to be eligible to receive up to \$64.00 monthly of advance premium tax credit.

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website (www.healthcare.gov).

This decision has no effect on any Marketplace determination issued after September 25, 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]