



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

Notice of Decision

Decision Date: January 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001085

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On December 1, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 17, 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001085

[REDACTED]
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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 [REDACTED] was eligible to receive up to \$259.00 per month of advance premium tax credit as of July 16, 2014?

Did the Marketplace properly determine that [REDACTED] was eligible for cost-sharing reductions as of July 16, 2014?

Did the Marketplace properly determine that [REDACTED] was ineligible for Medicaid as of July 16, 2014?

Procedural History

The Marketplace received your application for health insurance on July 16, 2014.

On July 17, 2014, the Marketplace issued a notice of eligibility determination based on your July 16, 2014 application. It found you eligible to enroll in a qualified health plan; eligible to receive up to \$259.00 per month of advance premium tax credit (APTC); and, if you selected a silver-level plan, cost-sharing reductions. However, you were found ineligible for Medicaid.

The record contains a handwritten account of monthly expenses and income and an undated letter in which you say, "I am disagreeing with your decision." Both are date stamped July 22, 2014, but they were not linked to your Marketplace account until November 13, 2014.

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On November 7, 2014, your application was resubmitted, and the Marketplace made a preliminary determination that you were eligible for APTC of up to \$259.00 in per month and eligible for cost-sharing reductions. No written determination was issued with regard to this application.

On December 1, 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 provide you an opportunity to submit additional evidence as directed by the Hearing Officer. This evidence included: (1) 2013 and 2014 statements from ██████████ reflecting income from Section 8 tenant payments, (2) 2013 tax return indicating that you received section 8 payments as rental income, and (3) a document indicating that during July 2014 you received income in the form of an annuity drawn from a life insurance policy.

The record was to be closed 15 days after the hearing date, or upon the receipt of additional evidence, whichever occurred earlier. Immediately after the hearing, you provided additional income documents via facsimile to the Appeals Unit.

Accordingly, the record was closed on December 1, 2014.

Findings of Fact

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

- 1) You testified that you are divorced and have one 23-year-old child, who is not seeking health insurance under your Marketplace account.
- 2) You testified that you expect to file a U.S. Income Tax return for 2014, file as "single," and claim no dependents.
- 3) You testified that you reside in Ulster County, New York.
- 4) You testified that you are seeking insurance through the Marketplace only for yourself.
- 5) In your July 13, 2014 application, you attested to a 2014 expected yearly income of \$18,655.00, which included (1) \$7,975.00 in earned income and (2) \$10,680.00 in "additional income." You also attested that you had stopped working.
- 6) You testified that you voluntarily left your position at ██████████ due to an ongoing medical condition.
- 7) You testified that since you left your position at ██████████, your only source of income has been \$790.00 per month in rental income

for your Section 8 tenant. You explained that although you receive \$890.00 per month, you consider \$100.00 of this to be for the hot and cold water you provide to the tenant.

- 8) You testified that you want your eligibility for Medicaid to be reconsidered by the Marketplace.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Advanced 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 applicable 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), 435.911(b)(1), 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 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 annual 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 household income in the range of at least 150% FPL but less than 200% FPL, the expected contribution is between 4.00% and 6.30% of the household income (26 CFR § 1.36B-3(g)(2)).

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 (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 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, or \$972.50 per month (79 Fed. Reg. 3593, 3593).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for up to \$259.00 per month in advance premium tax credit (APTC).

In the application that was submitted on July 16, 2014, you attested to an expected yearly income of \$18,655.00, and the eligibility determination relied upon that information.

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

You reside in Ulster County, where the second lowest cost silver plan that was available through the Marketplace for an individual in 2014 cost \$330.41 per month.

An annual household income of \$18,655.00 equals 162.36% of the 2013 FPL for a one-person household. At 162.36% of the 2013 federal poverty level (FPL), the expected contribution to the cost of the health insurance premium is 4.57% of income, or \$71.04 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$330.41 per month) minus your expected contribution (\$71.04 per month), which equals \$259.37 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$259.00 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 \$18,655.00 is 162.36% of the 2013 FPL, the Marketplace correctly found you 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 that is at or below 138% of the FPL for the applicable family size. On the date of your application, July 13, 2014, the relevant FPL was \$11,670.00 for a one-person household. Since \$18,655.00 is 159.85% 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 July 17, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$259.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and AFFIRMED.

Please note, this Decision addresses only your appeal of the Marketplace's July 17, 2014 eligibility determination. It does not discuss or change any determination made after that date.

Decision

The July 17, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 28, 2015

How this Decision Affects Your Eligibility

As of July 17, 2014, you were eligible to receive up to \$259.00 per month of APTC and, if you select a silver-level plan, eligible for cost-sharing reductions, but were not eligible for Medicaid coverage.

This Decision has no effect on any determination made by the Marketplace after July 17, 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

Summary

The July 17, 2014 eligibility determination is AFFIRMED.

As of July 17, 2014, you were eligible to receive up to \$259.00 per month of APTC and, if you select a silver-level plan, eligible for cost-sharing reductions, but were not eligible for Medicaid coverage.

This Decision has no effect on any determination made by the Marketplace after July 17, 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]