



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

Notice of Decision

Decision Date: April 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001171

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 12, 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).

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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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001171

[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 you and your spouse were eligible to receive up to \$675.00 per month of advance premium tax credit and eligible to receive cost-sharing reductions, as of December 11, 2014?

Did the Marketplace properly determine that you and your spouse were ineligible for Medicaid, as of December 11, 2014?

Procedural History

The Marketplace received your initial application for health insurance and a modified application on December 9, 2014. Both applications requested coverage for yourself and your spouse. In the first application you attested to an annual household income of \$41,262.60; in the second, \$34,164.84.

On December 11, 2014, the Marketplace issued a notice of eligibility redetermination based on your second December 9, 2014 application. It said that you and your spouse were collectively eligible to receive an advance premium tax credit (APTC) of up to \$563.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). This determination also found you and your spouse ineligible for Medicaid. This determination relied on your attested expected yearly income of \$34,164.84.

Also on December 11, 2014, the Marketplace received two revised applications, one of which you added your daughter without indicating whether you would be

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claiming her as a tax dependent. You also attested to a reduced expected annual income of \$24,264.00.

On December 11, 2014, the Marketplace made a preliminary determination that you were eligible to receive an APTC of up to \$675.00 per month and CSR. The preliminary determination did not find you or your spouse eligible for Medicaid.

On December 11, 2014, you spoke with the Marketplace's Account Review Unit to appeal the December 11, 2014 preliminary determination.

On December 12, 2014, the Marketplace issued a notice of eligibility redetermination stating you and your spouse were eligible for up to \$675.00 in APTC and CSR. The notice further stated that you and your spouse were not eligible for Medicaid coverage "because the household income you provided to us of \$24,264.00 is over the allowable income limit of \$21,707.00."

On January 5, 2015, 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 as the Hearing Officer directed you to submit additional evidence to corroborate your testimony: (1) a copy of your 2013 federal income tax return, (2) paystubs reflecting income earned by you from [REDACTED] [REDACTED] during December 2014, and (3) a letter signed by your spouse attesting to receipt of \$400.00 of income during December 2014 relating to his employment as a handyman. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

The documents were received by the Appeals Unit on January 12, 2014, and the record was closed that day.

Findings of Fact

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

- 1) You testified that you are married and have two children: a 25-year-old-son and a 21-year-old daughter.
- 2) You testified that you live with your spouse, both of your children, your son's 21-year-old fiancé, and their 11-month-old baby.
- 3) You testified that you live in Nassau County, New York.
- 4) You testified, and your applications indicate, that you are seeking health insurance coverage only for yourself and your spouse.

- 5) After the hearing, you provided a partially obscured copy of your 2013 federal income tax return. When you filed your 2013 federal income tax return, you filed jointly with your spouse, claimed your daughter as tax dependent, and reported an adjusted gross income of \$34,165.00.
- 6) In your December 9, 2014 application, you attested to (1) \$19,359.84 in expected income from [REDACTED] for work performed during 2014, and (2) \$14,805.00 in income from your spouse's self-employment during 2014. You testified that you did not include your daughter in this application since only you and your spouse were seeking insurance through the Marketplace. You further testified that you provided these income figures in your December 9, 2014 application based on your 2013 federal income tax return.
- 7) You testified during the hearing that you inadvertently omitted to identify your daughter as your tax dependent in your December 11, 2014 application. You also testified that you expect to file a joint tax return with your spouse on your 2015 federal income tax return and claim her as a dependent.
- 8) In your December 11, 2014 application, you attested to (1) \$15,264.00 in expected income from [REDACTED] for work performed between September 1, 2014 and June 1, 2015, (2) \$9,000.00 in income received by your spouse from his self-employment as a handyman during 2014, and (3) \$200.00 per month received by your daughter from her employer, the [REDACTED].
- 9) You testified that your daughter has health insurance coverage outside of the Marketplace.
- 10) After the hearing, you provided three paystubs from [REDACTED] reflecting that you received (1) \$864.08 for work performed between November 28, 2014 and December 11, 2014, (2) \$528.80 for work performed between December 12, 2014 and December 25, 2014, and (3) \$1,612.84 for work performed between December 26, 2014 and January 8, 2015.
- 11) The last paystub you received from [REDACTED] during 2014 indicates a year-to-date income of \$20,108.32. You testified that you expect approximately the same level of income during 2015.
- 12) After the hearing, you provided a signed letter from your spouse in which he attested to being self-employed as a handyman, and that he received approximately \$400.00 for the month of December 2014.

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 (QHP) 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 QHP, 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 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 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3(g)(1), IRS Rev. Proc. 2014-37).

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 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593). For a three-person household, the FPL for 2014 was \$19,790.00 (*id.*).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Cost-Sharing Reductions

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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 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 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 (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 December 11, 2014 application, that was the 2014 FPL, which is \$15,730.00 for a two-person household, or \$1,310.83 per month, and 19,790.00 for a three-person household, or \$1,649.17 per month (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).

Income

A taxpayer's household income includes the MAGI of all the individuals in the taxpayer's family who are required to file a return for the taxable year (26 CFR § 1.36B-1(e)(2)).

The income of children is not included within the MAGI-based income of an individual if the child is not required to file a tax return under 26 USC § 6012 (45 CFR 155.300(a), 42 CFR § 435.603(d)(2)). A child whose gross income is less than the federal standard deduction applicable to them is not required to file a federal income tax return (26 USC § 6012(a)(1)). The 2015 federal standard deduction for a tax dependent with a “single” filing status is \$6,300 (IRS Publication IR-2014-104 (Oct. 30, 2014)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse were eligible for a maximum advance premium tax credit (APTC) of \$675.00 per month.

In the final application submitted on December 11, 2014, you attested to an expected yearly income of \$24,264.00 in a two-person household. You did not indicate that you had any dependents. The eligibility determination issued by the Marketplace on December 12, 2014 relied upon that information.

You reside in Nassau County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$759.86 per month.

An annual household income of \$24,264.00 is 154.25% of the 2014 federal poverty level (FPL) for a two-person household. At 154.25% of the FPL, the expected contribution to the cost of the health insurance premium is 4.22% of income, or \$85.33 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$759.86 per month) minus your expected contribution (\$85.33 per month), which equals \$674.53 per month.

Therefore, rounding to the nearest dollar and based on the information provided in your application, the Marketplace correctly determined your APTC to be \$675.00 per month.

The second issue under review is whether the Marketplace properly determined that you were eligible for cost-sharing reductions (CSR). CSR is available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 154.25% of the 2014 FPL, you were correctly found to be eligible for CSR.

The final issue under review 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 \$24,264.00 for a two-person household. Since \$24,264.00 is 154.25% of the 2014 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the December 12, 2014 eligibility determination properly stated that, based on the information you provided to the Marketplace, you and your spouse were

eligible for APTC up to \$675.00 per month, eligible for CSR and not eligible for Medicaid, it is correct and AFFIRMED.

However, at the hearing you testified that your 2015 expected annual household income no longer reflects your current income situation. You further testified that, contrary to the information contained in your December 11, 2014 application, you intend to claim your daughter on your 2015 federal income tax return, as you have in the past. Accordingly, you would like you and your spouse's financial eligibility to be reconsidered.

You credibly testified, and provided evidence after the hearing, that during 2014, you personally earned \$20,108.32 from [REDACTED], and that your 2015 income would likely be the same. You also provided evidence that you received (1) \$846.08 for work performed between November 28, 2014 and December 11, 2014, and (2) \$528.80 for work performed December 12, 2014 and December 25, 2014.

Your spouse credibly testified that based on the nature of his work as a handyman, his income has been inconsistent, but that \$9,000.00 in expected annual income, as attested in the December 11, 2014 application, was reasonably accurate.

Your December 11, 2014 application indicated that you and your spouse would not be claiming a dependent on your 2015 federal tax return. However, you credibly testified that this was an error and that you intend to claim your daughter as a tax dependent during 2015.

You were unable to provide documentation on your daughter's income from the [REDACTED]. However, your December 2014 application states, and you credibly testified that your daughter receives \$200.00 per month in income. You also credibly testified that your daughter is disabled, lives with you, and depends upon you and your spouse for support. Since your daughter's expected income for 2014 is \$2,400.00 (\$200.00 X 12 months), which is less than the applicable federal standard deduction (\$6,300.00), her income is not included in your household's MAGI.

Therefore, your case is returned to the Marketplace to redetermine your eligibility for financial assistance based on a three-person household in Nassau County, with an expected 2015 income of \$29,108.32.

Decision

The December 11, 2014 eligibility determination, issued on December 12, 2014, is AFFIRMED.

Your case is returned to the Marketplace to redetermine your eligibility for financial assistance based on a three-person household in Nassau County, with an expected 2015 income of \$29,108.32.

Effective Date of this Decision: April 8, 2015

How this Decision Affects Your Eligibility

You and your spouse remain eligible to enroll in a qualified health plan, receive up to \$675.00 per month of advance premium tax credit (APTC) and, if you select a silver-level plan, eligible for cost-sharing reductions (CSR). However, your case is returned to the Marketplace to redetermine your eligibility for financial assistance based on a three-person household in Nassau County, with an expected 2015 income of \$29,108.32.

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 December 11, 2014 eligibility determination, issued on December 12, 2014, is **AFFIRMED**.

You and your spouse remain eligible to enroll in a qualified health plan, receive up to \$675.00 per month of advance premium tax credit (APTC) and, if you select a silver-level plan, eligible for cost-sharing reductions (CSR).

Your case is returned to the Marketplace to redetermine your eligibility for financial assistance based on a three-person household in Nassau County, with an expected 2015 income of \$29,108.32.

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]