



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

Notice of Decision

Decision Date: June 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001222

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 6, 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]
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[REDACTED]
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Issue

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

Did the Marketplace properly determine that, as of November 5, 2014, you were eligible for up to \$181.33 per month in advance premium tax credit and cost-sharing reductions?

Did the Marketplace properly determine that, as of November 5, 2014, you were not eligible for Medicaid?

Procedural History

On November 5, 2014, the Marketplace received your application to renew your health insurance for 2015. On the application you attested to an expected income of \$18,000.00 for 2015. The Marketplace made a preliminary determination that you were eligible for an advance premium tax credit of up to \$230.00 per month and, if you enrolled in a silver level plan, for cost-sharing reductions. No notice of eligibility determination was issued on the November 5, 2014 application.

On November 6, 2014, the Marketplace issued a renewal notice stating that you were eligible to keep the MVP Premier Plus Bronze 2 Bronze plan that you selected for 2014. It also said that, according to information obtained from federal and state data sources as of November 5, 2014, you qualified for an advance premium tax credit up to \$181.33 per month and, if you enrolled in a silver level plan, for cost-sharing reductions.

On December 17, 2014, you spoke to the Marketplace's Accounts Review Unit and appealed the determination set out in the renewal notice.

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On January 9, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to allow you to submit supporting income documentation. The Marketplace's Appeals Unit did not receive your supporting documentation within the 15-day period and the record was closed on January 24, 2015.

Findings of Fact

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

- 1) You testified that you are the only person in your tax household and expect to file your 2015 tax return as Single.
- 2) You testified that your income varies weekly because you are a [REDACTED] and the number of appointments varies.
- 3) You testified that you expect to earn about \$12,000.00 in 2015 before taxes are deducted. You further testified that you are paid weekly.
- 4) You testified you do not expect to take any deductions for the 2015 tax year.
- 5) According to your application, you reside in Saratoga County, New York.

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

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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 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-3T(g)(1), IRS Rev. Proc. 2014-37).

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-3T(g)(1), 45 CFR § 155.300(a), 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 still the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

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 his maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than his 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 (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 application, that was still 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).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$181.33 per month as provided in the November 6, 2014 renewal notice/eligibility determination, which relied on federal and state data sources.

In the application that was submitted on November 5, 2014 for 2015 coverage, you attested to an expected yearly income of \$18,000.00 from your employment. The eligibility determination relied upon that information.

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

You reside in Saratoga County, where the second lowest cost silver plan available for an individual through the Marketplace at the time you applied cost \$294.14 per month.

An annual income of \$18,000.00 is 156.66% of the 2014 federal poverty level (FPL) for a one-person household. At 156.66% of the FPL, the expected contribution to the cost of the health insurance premium is 4.33% of income, or \$64.95 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

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in your county (\$294.14 per month) minus your expected contribution (\$64.95 per month), which equals \$229.19. Therefore, the Marketplace correctly determined your APTC to be up to \$230.00 per month in the November 5, 2014 preliminary determination but incorrectly determined your APTC to be \$181.33 per month in the November 6, 2014 renewal notice.

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 138.00% of the FPL for the applicable family size. On the date your application was submitted for 2015 health insurance coverage, the relevant FPL was \$11,670.00 for a one-person household. Since \$18,000.00 is 154.24% 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 November 6, 2014 renewal notice/eligibility determination improperly stated that you were eligible for up to \$181.33 per month of APTC, the notice is MODIFIED to delete that statement. However, it correctly stated that you were not eligible for Medicaid and that portion of the notice is not disturbed.

Since the preceding November 5, 2014 preliminary determination correctly stated, that based on the information in your application, at the time of your application you were eligible for up to \$230.00 per month of APTC it is AFFIRMED and remains in effect.

While you testified to an expected 2015 income different than the income you attested to in your application, you failed to provide supporting income documentation as requested at the hearing. More specifically, at your hearing you were requested to provide supporting income documentation and the record was left open for 15 days. The Marketplace's Appeals Unit did not receive the requested supporting documentation and therefore this decision is based on the record as of January 24, 2015.

Decision

The November 6, 2014 renewal notice/eligibility determination is MODIFIED to remove the reference to the amount of your advance premium tax credit.

The November 5, 2014 preliminary determination finding you eligible for up to \$230.00 per month of advance premium tax credit is AFFIRMED.

Effective Date of this Decision: June 8, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$230.00 of advance premium tax credit (APTC) as of November 5, 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:
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- By fax: 1-855-900-5557

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Summary

The November 6, 2014 renewal notice/eligibility determination is MODIFIED to remove the reference to the amount of your advance premium tax credit. .

The November 5, 2014 preliminary determination finding you eligible for up to \$230.00 per month of advance premium tax credit (APTC) is AFFIRMED.

You remain eligible for up to \$230.00 of APTC as of November 5, 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]