



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

Notice of Decision

Decision Date: April 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001264

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 24, 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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[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 \$229.00 per month of advance premium tax credit effective February 1, 2015?

Did the Marketplace properly determine that [REDACTED] was eligible to receive cost-sharing reductions effective February 1, 2015?

Did the Marketplace properly determine that [REDACTED] was not eligible for Medicaid effective February 1, 2015?

Procedural History

The Marketplace received two applications from you for health insurance on December 23, 2014.

The Marketplace made a preliminary determination based on the later December 23, 2014 application. It said that you were eligible to receive an advance premium tax credit (APTC) of up to \$229.00 per month and eligible for cost-sharing reductions (CSR). This determination was based, in part, on your attested expected yearly income of \$30,240.00..

That same day, you spoke with the Marketplace's Account Review Unit to appeal the December 23, 2014 preliminary determination.

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On December 24, 2014, the Marketplace issued a notice of eligibility redetermination on your December 23, 2014 application. It states that, effective February 1, 2015, you are eligible for up to \$229.00 per month in APTC and, if you select a silver-level plan, for CSR. It also states that you are not eligible for Medicaid because your income is in excess of the limit for that program.

On February 3, 2015, 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 are single and live with your one-year-old daughter.
- 2) You expect to file as "single" on your U.S. Income Tax return for the 2015 tax year and claim your daughter as your sole dependent.
- 3) You reside in Suffolk County, New York.
- 4) In your December 23, 2014 applications, you attested to earning \$30,240.00 (or \$1,260.00 twice a month) from your employment. You testified that you received this amount on the fifteenth and thirtieth day of each month and that this income information is accurate.
- 5) You testified that you want insurance through the Marketplace until you are eligible to enroll in the health insurance offered by your employer. You expect this to happen by October 2015.
- 6) You testified that your monthly living expenses are high. These include approximately \$230.00 per week in daycare costs for your daughter and \$86.00 per month in student loans. You further testified that you deferred your student loan payments and did not make any payments on that loan during 2014.
- 7) You testified that you expect to begin making payments on your student loans in January 2015. You also testified that approximately \$40.00 of your monthly payment will be for interest on the loan.

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

Applicable Law and Regulations

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)). Living expenses, such as mortgage, rent, utilities, and childcare, are not an allowable deductions in computing adjusted gross income on your tax return.

Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500.00 in interest paid by taxpayers during the taxable year, whose individual yearly income does not exceed \$80,000.00 (26 USC § 221; see *also* 26 USC § 62(17)).

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 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

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 the 2014 FPL, which is \$15,730.00 for a two-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).

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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 to receive up to \$229.00 per month in advance premium tax credit (APTC).

In the application that was submitted on December 23, 2014, you attested to an expected yearly income of \$30,240.00, and the eligibility determination relied on that information.

According to the record, you are in a two-person household since you expect to file a 2015 U.S. Income Tax return, file as “single,” and claim your daughter as your sole dependent.

You reside in Suffolk County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$379.93 per month.

An annual household income of \$30,240.00 is 192.24% of the 2014 FPL for a two-person household. At 192.24% of the FPL, the expected contribution to the cost of the health insurance premium is 5.98% of income, or \$150.70 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$379.93 per month) minus your expected contribution (\$150.70 per month), which equals \$229.23 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly found you eligible for an APTC of up to \$229.00 per month.

The second issue is whether the Marketplace properly determined that you were eligible for cost-sharing reductions (CSR).

CSR are available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 192.24% of the 2014 FPL, you were correctly found to be eligible for cost-sharing reductions.

The final 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, the relevant FPL was \$15,730.00 for a two-person household. Your expected income of \$30,240.00 is 192.24% of the 2014 FPL and exceeds the level of Medicaid eligibility.

Additionally, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid based on monthly income, you must meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,808.95 per month for a two-person household. You credibly testified that during December 2014 you received two payments of \$1,260.00, making your income \$2,520.00 for that month. This exceeds the level of Medicaid eligibility.

The Marketplace therefore properly found you to be ineligible for Medicaid, both on an analysis based on an expected annual income and one based on monthly income in the month you applied, using the information provided in your application and in your testimony.

Since the December 24, 2014 notice of eligibility determination properly states that, effective February 1, 2015, you are eligible for APTC up to \$229.00 per month, eligible for CSR, and not eligible for Medicaid, it is correct and is **AFFIRMED**.

You testified that your expected annual income during 2015 will be less than \$30,240.00 because you expect to take the student loan interest deduction on your 2015 federal tax return. You deferred your student loan payments during 2014, and there is no evidence that you have taken the loans out of deferment and begun making payments. When you begin to make these payments and know how much you will be paying for interest each month, you can update your Marketplace application and request redetermination of your eligibility for financial assistance.

Additionally, since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable, and phone to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the Marketplace computes your modified adjusted gross income for APTC purposes.

However, 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 reported to the Marketplace and their actual gross income for that year. If you received less tax credit than your maximum entitlement, based on gross income, you may receive an income tax refund.

You testified that you cannot afford to pay a health insurance premium given your current situation.

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)).

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

Decision

The December 24, 2014 notice of eligibility determination is AFFIRMED.

Effective Date of this Decision: April 15, 2015

How this Decision Affects Your Eligibility

Effective February 1, 2015, you are eligible to receive up to \$229.00 per month of advance premium tax credit; eligible for cost-sharing reductions if you select a silver level health plan, and ineligible for Medicaid.

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.

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).

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 24, 2014 notice of eligibility determination is **AFFIRMED**.

Effective February 1, 2015, you are eligible to receive up to \$229.00 per month of advance premium tax credit; eligible for cost-sharing reductions if you select a silver level health plan, and ineligible for Medicaid.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]