



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: AP000000001269

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 2, 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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Issue

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

Did the Marketplace properly determine that, effective January 1, 2015, you were eligible for up to \$317.00 per month in advance premium tax credit and cost-sharing reductions?

Procedural History

The Marketplace received your initial application for health insurance on December 1, 2014.

On December 2, 2014, the Marketplace issued an eligibility determination notice in your case. It stated that, effective January 1, 2015, you are eligible to receive up to \$317.00 per month in advance premium tax credit to help pay for the cost of health coverage. It also stated that you were eligible to receive cost sharing reductions. It stated that you are not eligible for Medicaid because your household income of \$17,160.00 is over the allowable Medicaid income limit of \$16,105.00.

On December 23, 2014, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it did not approve an advance premium tax credit of more than \$317.00 per month.

On December 24, 2014, the Marketplace issued an eligibility redetermination in your case. It stated that you are eligible to receive up to \$317.00 per month in advance premium tax credit to help pay for the cost of health coverage. It also

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stated that you were eligible to receive cost sharing reductions. It stated that you are not eligible for Medicaid because your household income of \$17,160.00 is over the allowable Medicaid income limit of \$16,105.00.

On January 23, 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 give you an opportunity 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 February 7, 2015.

Findings of Fact

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

- 1) You testified, and the record reflects, that you applied for health insurance through New York State of Health with the assistance of an application counselor.
- 2) You testified, and the record reflects, that you are the only person in your tax household and you expect to file your 2015 tax return as Single.
- 3) You testified that you expect your income fluctuates because you do not have steady hours. You testified that you work as a home health aide and your income depends upon whether jobs are available.
- 4) According to your December 2, 2014 and December 23, 2014 applications, you expect to have a household income of approximately \$17,160.00 for the 2015 tax year.
- 5) At the January 23, 2015 hearing, you testified that you did not know how that income was calculated.
- 6) You testified that you are paid weekly and earn \$10.00 per hour before taxes are deducted. You further testified that you expect to work approximately 25 to 30 hours per week but your most recent work assignment had ended and that you had not been assigned a new case as of the January 23, 2015 hearing.
- 7) The record reflects that you do not expect to take any deductions for the 2015 tax year.
- 8) You testified, and the record reflects, that you reside in Kings 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

- 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 133% but less than 150% of the 2014 FPL, the expected contribution is between 3.02% and 4.02% 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 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 \$317.00 per month.

In the application that was submitted on December 1, 2014, you attested to an expected yearly income of \$17,160.00 from your employment as a home health aide. The eligibility determination relied upon that information.

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

You reside in Kings County, where the second lowest cost silver plan available for 2015 for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$17,160.00 is 147.04% of the 2014 federal poverty level (FPL) for a one-person household. At 147.04% of the FPL, the expected contribution to the cost of the health insurance premium is 3.85% of income, or \$55.00 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 in your county (\$371.75 per month) minus your expected contribution (\$55.00 per month), which equals \$316.75. Therefore, rounded to the nearest dollar, the Marketplace correctly computed your APTC to be \$317.00 per month based on an expected income of \$17,160.00.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 147.04% of the FPL, you were correctly found eligible for cost-sharing reductions.

However, at the hearing, you testified that your 2015 expected annual household income is different than what was submitted on your behalf by the application counselor who assisted you in applying for health insurance and, therefore, does not accurately reflect your current income situation.

You testified that even though you do not have guaranteed hours, you expect to work 25 to 30 hours per week throughout the 2015 tax year. You further testified that you earn \$10.00 per hour before taxes are deducted.

At the end of your hearing on January 23, 2015, the record was left open for 15 days to afford you the opportunity to income documentation in support of your testimony. You were given the opportunity to supply documentation of your income for the months of December 2014 and January 2015. However no additional evidence was received from you before the record was closed on February 7, 2014. Without the documentation requested by the Hearing Officer, we are unable to ascertain the income you received during the months of December 2014 or January 2015.

Since the credible evidence of record supports the determination made on December 1, 2014, and since there is insufficient evidence to support

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redetermination of your eligibility, the December 2, 2014 notice of eligibility determination is AFFIRMED.

Decision

The December 2, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: April 15, 2015

How this Decision Affects Your Eligibility

This decision does not change your current eligibility.

Effective January 1, 2015, you are eligible for up to \$317.00 per month in advance premium tax credit and cost-sharing reductions.

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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 2, 2014 eligibility determination is AFFIRMED.

This decision does not change your current eligibility.

Effective January 1, 2015, you are eligible for up to \$317.00 per month in advance premium tax credit and cost-sharing reductions.

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]
[REDACTED]