



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: AP000000001286

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED] [REDACTED]

On January 27, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 29, 2014 preliminary 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).

This page intentionally left blank.



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

Decision

Decision Date: April 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001286

[REDACTED]
[REDACTED]
[REDACTED]

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 \$74.00 per month of advance premium tax credit effective February 1, 2015?

Did the Marketplace properly determine that [REDACTED] was not 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 your application for health insurance on December 29, 2014.

On December 29, 2014, the Marketplace made a preliminary determination that, with an expected 2015 income of \$37,385.52, you were eligible to receive up to \$74.00 per month in advance premium tax credit (APTC), effective February 2, 2015.

That same day, you spoke with the Marketplace's Account Review Unit to appeal the December 29, 2014 preliminary eligibility determination.

On December 30, 2014, the Marketplace issued a notice of eligibility redetermination on your December 29, 2014 application. It stated that you were

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).

eligible for up to \$74.00 per month in APTC, but not eligible for cost-sharing reductions (CSR) or Medicaid because your income was over the allowable limits for those programs. .

On January 27, 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, because the Hearing Officer directed you to provide additional evidence to corroborate your testimony: (1) documents reflecting your monthly benefits received from the Social Security Administration (SSA) during 2014, and (2) documents showing that your monthly pension benefits received from the Consolidated Retirement Fund were not taxable. The record was to be closed 15 days after the hearing date, or upon the receipt of the documents, whichever occurred earlier. You faxed the necessary documentation to the Appeals Unit on February 2, 2015.

As a result, the record was closed on February 2, 2015.

Findings of Fact

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

- 1) You testified that you are single and have no dependents.
- 2) You testified that you are seeking health insurance coverage through the Marketplace only for yourself.
- 3) You testified that you expect to file as "single" on your U.S. Income Tax return for the 2015 tax year and claim no dependents.
- 4) You testified that you live in Kings County, New York.
- 5) In your December 29, 2014 application, you attested to that your annual income consists of \$25,272.00 (\$2,106.00 per month) in Social Security benefits and \$12,086.52 (\$1,007.21 per month) in pension benefits. You testified that these amounts were accurate when you entered them in your application and have remained accurate.
- 6) You provided a copy of a Social Security award letter stating that your monthly benefit award during 2015 (before deductions) will be \$2,106.00.
- 7) You provided a copy of your 2014 Form 1099-R reflecting that you received \$9,064.89 in taxable distributions from your pension.

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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution is 9.56% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Cost-Sharing Reductions

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).

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 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 \$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).

Modified Adjusted Gross Income

Eligibility for APTC is based on the taxpayer's modified adjusted gross income as defined in the federal tax code (45 CFR 155.300(a)). Generally, modified adjusted gross income is your adjusted gross income plus any nontaxable social security income, nontaxable interest income and nontaxable foreign income that you receive (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

A taxpayer's adjusted gross income is gross income reduced by pre-tax (above-the-line) deductions. Gross income means all income from whatever source it is derived from, which includes but not limited to income derived from business, interest, rent, royalties, compensation for services, pensions, annuities, etc. (26 USC § 61). Above-the-line deductions are deductions taxpayers can make to reduce the amount of their gross income. Such deductions include alimony payments made, interest on student loans, and other items that are included on page one of a taxpayer's U.S. Individual Income Tax Return Form 1040 (26 USC § 62). However, they do not include charitable contributions, mortgage interest and other “below-the-line” deductions or items that are not otherwise considered deductible for tax purposes.

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).

There is no provision in law or regulation that allows the Marketplace to deduct the taxable portion of your pension benefits from the modified adjusted gross income.

Legal Analysis

The first issue whether the Marketplace properly determined that you were eligible to receive up to \$74.00 per month in advance premium tax credit (APTC).

On your December 29, 2014 application, you indicated that you expected to receive a total of \$37,358.52 during 2015, which included \$2,106.00 per month in Social Security benefits and \$1,007.21 per month in pension benefits. These benefits are counted as part of your modified adjusted gross income when determining your eligibility for assistance through the Marketplace. The Marketplace relied upon that information in determining your eligibility.

According to the record, you are the only person in your tax household, since you expect to file a 2015 U.S. Income Tax return, file as single, and claim no dependents.

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

An annual household income of \$37,358.52 is 320.12% of the 2014 FPL for a one-person household. At 320.12% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$297.62 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$371.75 per month) minus your expected contribution (\$297.62 per month), which equals \$74.13 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$74.00 per month

The second issue is whether the Marketplace properly determined that you are not 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 320.12% of the 2014 FPL, you were correctly found to be not eligible for CSR.

The final issue is whether the Marketplace properly determined that you are 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 \$11,670.00 for a one-person household. Since \$37,358.52 is 320.12% 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 December 31, 2014 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for APTC up to \$74.00 per month and ineligible for both cost-sharing reductions and Medicaid, it is correct and is AFFIRMED.

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, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$16,104.60 per year or \$1,342.05 per month.

You testified, and provided documentation after the hearing at the direction of the Hearing Officer, showing that you received during the month of your application, December 2014: (1) \$2,106.00 in Social Security benefits, and (2) \$1,007.21 in taxable pension benefits.

Since the credible evidence of record indicates your income was \$3,077.21 for December 2014, you did not qualify for Medicaid on the basis of monthly income when you submitted your December 29, 2014 application.

Decision

The December 29, 2014 preliminary eligibility determination is AFFIRMED.

Effective Date of this Decision: April 15, 2015

How this Decision Affects Your Eligibility

You continue to be eligible to receive up to \$74.00 per month of advance premium tax credit.

You are not eligible for cost-sharing reductions or Medicaid.

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).

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

You continue to be eligible to receive up to \$74.00 per month of advance premium tax credit.

You are not eligible for cost-sharing reductions or Medicaid.

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).

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]