



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

Notice of Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001299

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 15, 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).

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Decision

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Appeal Identification Number: AP000000001299

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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 you are eligible to receive an advance premium tax credit of up to \$289.00 per month and, if you select a silver level qualified health plan, eligible for cost-sharing reductions as of December 14, 2014?

Procedural History

The Marketplace received your application for health coverage in 2015 on December 14, 2014.

That same day, the Marketplace prepared a preliminary eligibility redetermination and found that you were eligible to receive an advance premium tax credit (APTC) of up to \$289.00 per month and, if you select a silver level qualified health plan (QHP), eligible for cost-sharing reductions.

On December 15, 2014, the Marketplace issued a notice of eligibility determination based on your December 14, 2014 application. The notice said that you are eligible to enroll in a QHP and, at an annual household income of \$20,000.00, entitled to up to \$289.00 per month in APTC. The notice also stated that you are eligible for cost-sharing reductions if you enroll in a silver level QHP, but not eligible for Medicaid because the

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household income you provided is over the allowable income limit of \$16,105.00 for this program.

On December 30, 2014, you called the Marketplace's Account Review Unit and appealed the determination.

The Marketplace scheduled a hearing and sent you a notice on January 14, 2015, that informed you that the hearing would occur on January 28, 2015.

On January 28, 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, have no dependents, and cannot be claimed as a dependent on anyone else's tax return.
- 2) You plan on filing your 2015 income tax return as single and will not be claiming any dependents.
- 3) You testified that you may later decide to claim your mother as a dependent on your 2015 income tax return, but you are not sure at this time.
- 4) According to your Marketplace application and your testimony at hearing, you attested that your 2014 income was \$20,000.00 and your expected 2015 household income would be the same. You also attested that you expect your earned income for 2015 to be \$19,656.00.
- 5) You testified that you earn \$378.00 gross per week and work part-time because you are a college student.
- 6) You testified that you are taking \$1,200.00 in deductions on your 2014 income tax return for tuition and fees and expect to take a similar deduction in 2015.
- 7) You testified that, even with financial assistance, you cannot afford to pay any monthly premium amount. You would like to be considered for Medicaid.
- 8) You reside in Queens 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 and (1) expects to have a household income between 138% and 400% of the 2013 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 qualified health plan; 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)).

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

A taxpayer's household income is the taxpayer's own MAGI plus the MAGI of all the other individuals in the taxpayer's family who are required to file a return for the tax year (26 USC § 36B(d); 26 CFR § 1.36B-1(e)).

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).

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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 150% but less than 200% of the 2014 FPL, the expected contribution for 2015 is between 4.02 % and 6.34% of the household income (26 CFR § 1.36B-3T, 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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 her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her 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 are available to a person who (1) is eligible to enroll in a qualified health plan 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 qualified health plan (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 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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving

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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).

Hardship 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 currently defers 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, you can consult the Federal Marketplace website (www.healthcare.gov) for information and an application.

Legal Analysis

At issue is whether the Marketplace properly determined that you are eligible for an advance premium tax credit (APTC) up to \$289.00 monthly and eligible for cost-sharing reductions, but not eligible for Medicaid.

As to computing your expected annual income, Congress renewed the qualified tuition deduction for tax year 2014 as part of the Tax Increase Prevention Act of 2014, which became law on December 19, 2014, but it did not renew the law for the 2015 tax year (H.R. 5771 - 113th Congress (2013-2014), Public Law No. 113-295, Title I, Subtitle A, Section 107). Accordingly, while you can claim your qualified tuition deduction on your 2014 income tax return, which will adjust your gross income for that tax year, it cannot be used to adjust your gross income in 2015 for purposes of calculating your APTC at this time.

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

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

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An annual income of \$20,000.00 is 171.38% of the 2014 federal poverty level (FPL) for a one-person household. At 171.38% of the FPL, the expected contribution to the cost of the health insurance premium is 5.01% of income, or \$83.50 per month.

The maximum amount of advance premium tax credit (APTC) that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for individual only coverage in your county (\$371.75 per month) minus your expected contribution (\$83.50 per month), which equals \$288.25 per month. When computed to the nearest dollar, your APTC is \$288.00 per month.

However, the Marketplace used the 2014 taxpayer contribution percentages and computed your expected contribution to be \$83.00, which when subtracted from the second lowest cost silver plan (\$371.75 per month) equals \$288.75. Therefore, computed to the nearest dollar, the Marketplace determined your APTC to be \$289.00 per month.

You also reported an expected income of \$19,656, which is your gross weekly pay of \$378.00 times 52 weeks, which is 168.43% of the FPL. At 168.43% of the FPL, the expected contribution to the cost of the health insurance premium is 4.88% of income, or \$79.93 per month, which when subtracted from the second lowest cost silver plan through the Marketplace for individual only coverage in your county of \$371.75, equals \$291.82. When computed to the nearest dollar, your APTC is \$292.00 per month.

Since there is no evidence to show the APTC that can be authorized on any expected income for 2015 would be materially greater or lesser than the credit that the Marketplace authorized on \$20,000.00, any ultimate difference is more properly claimed when your actual earnings are reconciled on your 2015 individual federal income tax return.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$20,000.00 is 171.38% of the 2014 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

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 \$11,670.00 for a one-person household. Since \$20,000.00 is 171.38% 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. You also do not qualify for Medicaid using an expected annual income of \$19,656.00, which is 168.43% of the applicable 2014 FPL.

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Since the December 15, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$289.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, you testified that you are not able to afford to pay any monthly health insurance premium, even with APTC and CSR. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance in 2015, you can consult the Federal Marketplace website (www.healthcare.gov) for more information and an application.

Decision

The December 15, 2014 eligibility redetermination is AFFIRMED.

Effective Date of this Decision: June 16, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You continue to be eligible to receive up to \$289.00 monthly of advance premium tax credit and, if enrolled in a silver-level qualified health plan, eligible for 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

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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 15, 2014 eligibility redetermination is **AFFIRMED**.

This decision does not change your eligibility.

You continue to be eligible to receive up to \$289.00 monthly of advance premium tax credit and, if enrolled in a silver-level qualified health plan, eligible for cost-sharing reductions.

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website (www.healthcare.gov).

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]
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