



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

Notice of Decision

Decision Date: July 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001593

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 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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[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 you were eligible to receive an advance premium tax credit (APTC) of up to \$320.00 per month and eligible for cost-sharing reductions?

Did the Marketplace properly determine that you were not eligible for Medicaid?

Procedural History

The Marketplace received your application for health insurance on November 24, 2014, in which you attested to an expected yearly income of \$16,851.38.

On December 6, 2014, the Marketplace issued a notice of eligibility determination based on your November 24, 2014 application. It stated that you were eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$320.00 per month; and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). This eligibility was effective January 1, 2015. The notice further stated that you were not eligible for Medicaid because your income was over the allowable limit for that program.

On January 23, 2015, Marketplace received (1) a letter from you requesting an appeal of the December 6, 2014 determination insofar as you were found not eligible for Medicaid, and (2) copies of earning statements issued to you by your employer, [REDACTED] on December 19, 2014 and January 2, 2015.

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).

On February 24, 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 for the sole purpose of providing you an opportunity to submit the following additional evidence: (1) a W-2 statement reflecting wages earned during 2014, (2) earnings statements received during November 2014 and (3) earnings statement received during December 2014. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

Immediately after the hearing, you provided the above referenced documents to the Appeals Unit via facsimile. As a result, the record was closed on February 24, 2015.

Findings of Fact

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

- 1) You testified that you are unmarried and have no children.
- 2) You testified, and your application indicates, that you expect to file your 2015 taxes with a tax filing status of "single" and will not claim any dependents.
- 3) You live in New York County, New York.
- 4) Your November 24, 2014 application reflects that you expect to receive \$648.13 on a bi-weekly basis from ██████.
- 5) You testified that a navigator or certified application counselor on the 2nd floor of ██████ assisted you in submitting your November 24, 2014 application to the Marketplace.
- 6) You testified that your income was not \$16,851.38 as referenced in your application, but rather \$14,524.50 which you based on your \$14,133.50 year-to-date earnings during 2014 and \$391.00 you earned on your first paycheck received in 2015. You further testified that your employment with ██████ is temporary based on the work available, and fluctuates as this position is in the hospitality industry.
- 7) You testified that you are paid by ██████ on a bi-weekly basis.
- 8) On January 23, 2015, you provided a copies of earnings statement issued by ██████ reflecting your receipt of (1) \$1,028.50 on December 19, 2015, which increased your year-to-date earnings to \$14,133.50 and (2) \$391.00 on January 2, 2015.

9) On February 24, 2014, you provided (1) a W-2 statement issued by ██████ reflecting that you received a total of \$14,133.50 during 2014, (2) a paystub for \$701.25 on November 7, 2014, (3) a paystub for \$667.25 on November 21, 2014, and (4) a paystub for \$803.25 on December 5, 2015.

10) You testified that that even after applying the maximum tax credit of \$320.00 per month, health insurance through the Marketplace is unaffordable. You further testified that you were seeking to be redetermined eligible for Medicaid.

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).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 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 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).

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 first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 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 \$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 are eligible to receive an advance premium tax credit (APTC) of up to \$320.00 per month.

In the application that was submitted on November 24, 2014, you attested to an expected yearly income of \$16,851.38, and the eligibility determination relied upon that information.

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

You reside in New York 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 \$16,851.38 is 144.40% of the 2014 FPL for a one-person household. At 144.40% of the FPL, the expected contribution to the cost of the health insurance premium is 3.69% of income, or \$51.82 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 (\$51.82 per month), which equals \$319.93 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly found you eligible for an APTC of up to \$320.00 per month

The second issue is whether or not the Marketplace properly determined that you are eligible for CSR. CSR is available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 144.40% of the 2014 FPL, you were correctly found to be eligible for CSR.

The final issue under appeal 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 (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 \$16,851.38 is 144.40% 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 6, 2014 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for an

APTC up to \$320.00 per month, eligible for CSR and ineligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation.

You testified, and provided documentation at the request of the Hearing Officer, that indicates your total income received during November 2014 was \$1,368.50 and for December 2014 was \$1,831.75.

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 \$1,342.00 per month. Since the credible evidence of record indicates your income for November 2014 was \$1,368.50 and for December 2014 was \$1,831.75, you did not qualify for Medicaid on the basis of monthly income when you submitted your November 24, 2014 application.

Decision

The December 6, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 10, 2015

How this Decision Affects Your Eligibility

You continue to be eligible to receive up to \$320.00 per month of advance premium tax credit, and if you select a silver-level plan, eligible for cost-sharing reductions.

You are not eligible for Medicaid.

Please note, however, this Decision has no effect on any subsequent determinations issued by the Marketplace on or after December 6, 2014, including the April 30, 2015 determination finding you eligible for Medicaid coverage beginning April 1, 2015.

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

The December 6, 2014 eligibility determination is **AFFIRMED**.

You continue to be eligible to receive up to \$320.00 per month of advance premium tax credit, and if you select a silver-level plan, eligible for cost-sharing reductions.

You are not eligible for 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).

Please note, however, this Decision has no effect on any subsequent determinations issued by the Marketplace on or after December 6, 2014, including the April 30, 2015 determination finding you eligible for Medicaid coverage beginning April 1, 2015.

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]