



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

Notice of Decision

Decision Date: August 12, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001114



Dear [REDACTED],

On June 22, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 12, 2014, preliminary eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

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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Issues

The issues presented for review by the Appeals Unit of the NY State of Health are:

Did the Marketplace properly determine that you and your spouse were eligible to receive up to \$536.00 monthly of advance premium tax credit as of November 12, 2014?

Did the Marketplace properly determine that you and your spouse were eligible for cost-sharing reductions as of November 12, 2014, if you enroll in a silver-level qualified health plan?

Did the Marketplace properly determine that you and your spouse were not eligible for Medicaid as of November 12, 2014?

Procedural History

On October 23, 2014, the Marketplace rendered a preliminary eligibility determination that you are eligible for Medicaid. However, “[i]n order for your eligibility to be finalized, you must submit documents...to confirm that the information you provided in your application is accurate.” You were directed to submit citizenship status documents by January 21, 2015.

On November 12, 2014, you updated your Marketplace account. The Marketplace rendered a preliminary eligibility determination that you and your spouse are eligible for up to \$536.00 of advance premium tax credit and cost-sharing reductions. However, “[i]n order for your eligibility to be finalized, you must submit documents...to confirm that the information you provided in your

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application is accurate.” You and your spouse were directed to submit citizenship status documents to the Marketplace by February 10, 2015.

On November 13, 2014, the Marketplace issued a Cancellation Notice stating your health insurance through HealthPlus would be cancelled effective December 1, 2014.

On November 17, 2014, you mailed an appeal request to the Marketplace.

On December 11, 2014, you faxed your Certificate of Naturalization (Register No. [REDACTED]) to the Marketplace.

On December 11, 2014, the Marketplace issued a Notice of Telephone Hearing scheduling your hearing on January 16, 2015.

On December 18, 2014, the Marketplace issued an eligibility determination notice stating that you and your spouse are eligible to receive up to \$645.00 of advance premium tax credits and cost-sharing reductions, if you select a silver-level qualified health plan. The notice also found you not eligible for Medicaid because the household income you provided is over the allowable income limit.

On February 18, 2015, the Marketplace Appeals Unit issued a Notice of Dismissal-Failure to Appear because the Hearing Officer from Marketplace Appeals Unit was unable to contact you at the time your hearing was scheduled.

On March 8, 2015, you mailed a request to reschedule your hearing with the Marketplace Appeals Unit.

On June 22, 2015, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing with the assistance of interpreter # [REDACTED]. The record was left open until June 24, 2015, because you were directed to submit additional income documentation, including documentation of your monthly UIB benefits.

On June 22, 2015, you sent a five-page fax to the Marketplace Appeals Unit consisting of a cover page, two pay statements for your wife’s earnings, with check dates of 6/5/15 (showing gross earnings of \$274.27) and 11/28/14 (showing gross earnings of \$257.21); a duplicate copy of the pay statement dated 6/5/15 and a letter from the NYS Dept. of Labor to your wife indicating a payment of UIB benefits to your wife on 12/1/14 in the amount of \$186.38. The fax has been marked as “Appellant’s Exhibit A” and has been made part of the record.

Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself and your spouse (11/12/2014 Marketplace Application).
2. You plan on filing a 2015 federal income tax return with the tax status of married filing jointly and will not claim any dependents on that return.
3. According to your November 12, 2015, Marketplace application, you had an expected annual household income of \$34,624.91.
4. You testified that your last day of employment was June 28, 2014 and you collected Unemployment Insurance Benefits until December 2014.
5. You testified that your spouse collected Unemployment Insurance Benefits from January 2015, until May 2015.
6. You currently reside in Queens County, NY.
7. On June 22, 2015 you submitted a five-page fax to the Marketplace Appeals Unit. This documentation shows that your spouse received:
 - (a) \$257.21 in gross pay on 11/28/2014 (Appellant's Exhibit A p.5);
 - (b) \$274.27 in gross pay on 6/5/2015 (Appellant's Exhibit A p.2,4).
 - (c) \$186.38 in UIB benefits on 12/1/14 (Appellant's Exhibit A p. 3).

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; (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)).

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 the 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).

For annual household income in the range of at least 200% but less than 250% of the 2013 Federal Poverty Line (FPL), the expected contribution is between 6.30% and 8.05% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR §155.300(a)).

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 2013 FPL, which is \$15,510.00 for a two-person household (78 Fed. Reg. 5182, 5183).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a Qualified Health Plan (QHP) through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent 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).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a (). 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 QHP; (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 QHP; 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 you and your spouse conditionally eligible for up to \$536.00 a month of Advanced Premium Tax Credits (APTC).

According to the record, you have a two-person tax household. You expected to file your federal income tax return with the tax status of married filing jointly and claim no dependents on your return.

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$741.05 per month in 2014.

The November 12, 2014, preliminary eligibility determination was based on an annual household income of \$34,624.91, which was the amount you entered as your total household's expected annual income for 2014.

An annual household income of \$34,624.91 equals 223.24% of the 2013 Federal Poverty Line () for a two-person household. At 223.24% of the FPL, the expected contribution to the cost of the health insurance premium is 7.11% of income, or \$205.24 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$741.05 per month) minus your expected contribution (\$205.24 per month), which equals \$535.81 per month.

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Therefore, the Marketplace correctly computed your APTC to be \$536.00 per month.

The second issue is whether the Marketplace properly determined you and your spouse conditionally eligible for cost-sharing reductions.

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 223.24% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined that you and your spouse 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 \$15,730.00 for a two-person household. Since \$34,624.91 is 220.12% of the 2014 FPL, the Marketplace properly found you and your spouse not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. To be eligible for Medicaid, you must meet the nonfinancial criteria and have an income no greater than 138% of the FPL. In order to be eligible for Medicaid a household of two must not exceed a monthly income limit of \$1,809.00.

You testified that your last day of employment was on June 28, 2014 and you stopped receiving Unemployment Insurance Benefits (UIB) in December 2014. You further testified that your spouse collected UIB from January 2015 until May 2015.

At the June 22, 2015, hearing you were directed to provide income documentation showing your monthly income, including your UIB benefits. You submitted two of your spouse's earnings statements and a letter to your wife indicating a UIB benefit payment (Appellant's Exhibit A). This documentation shows that your spouse received \$257.21 in gross pay on 11/28/2015; \$274.27 in gross pay on 6/5/2015; and a UIB payment of \$186.38 on 12/1/14. You did not submit complete income documentation for any full month. Therefore the record lacks sufficient income information on a monthly basis.

At this time you have not provided sufficient testimony or documentation to return your case to the Marketplace to recalculate your benefits on a yearly or monthly basis. However, please contact the Marketplace when you have sufficient documentation of your change in income.

Since the November 12, 2014 preliminary eligibility determination properly states that you and your spouse are conditionally eligible for APTC of up to \$536.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid based on your November 12, 2014 Marketplace application, it is correct and is AFFIRMED.

Decision

The November 11, 2014 preliminary eligibility determination is AFFIRMED.

Effective Date of this Decision: August 12, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You and your spouse remain conditionally eligible to receive up to \$536.00 monthly of APTC and cost-sharing reductions, if you select a silver-level qualified health plan.

You and your spouse remain not eligible for Medicaid.

This decision does not affect determinations made subsequent to your appeal request of November 17, 2014.

Please contact the Marketplace when you have sufficient documentation of your change in income.

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.

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 November 11, 2014 preliminary eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

You and your spouse remain conditionally eligible to receive up to \$536.00 monthly of APTC and cost-sharing reductions, if you select a silver-level qualified health plan.

You and your spouse remain not eligible for Medicaid.

This decision does not affect determinations made subsequent to your appeal request of November 17, 2014.

Please contact the Marketplace when you have sufficient documentation of your change in income.

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.

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:

