



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

Notice of Decision

Decision Date: April 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001321

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

Dear Ms. [REDACTED],

On January 29, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s January 1, 2015 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).

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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 are not eligible for financial assistance through the Marketplace in 2015 as of January 1, 2015?

Are you entitled to reimbursement for premiums you paid for health insurance in January 2015 and February 2015?

Procedural History

The Marketplace received your 2015 application for health insurance on December 17, 2014.

On December 22, 2014, the Marketplace issued a notice of eligibility determination stating that, effective January 1, 2015, you were conditionally eligible to purchase a qualified health plan (QHP) at full cost in the Marketplace. It indicated that you were not eligible for an advance premium tax credit (APTC) because your renewal period and income data were not available and that you were not eligible for cost-sharing reductions (CSR) because you were ineligible for APTC. It also stated that you were not eligible for Medicaid because your income was over the allowable limit for that program. Finally, it gave you until February 2, 2015 to provide documentation confirming that your Medicare Part A or Part B enrollment had been terminated.

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On January 1, 2015, the Marketplace issued a notice of eligibility redetermination indicating that you were conditionally eligible to purchase a QHP at full cost through New York State of Health, effective February 1, 2015. It stated you were not eligible for APTC because you were enrolled in or eligible for a public insurance program, such as Medicare. It also stated that you were not eligible for Medicaid because your income was over the allowable limit for that program.

On January 2, 2015, you spoke with a representative in the Marketplace's Account Review Unit and appealed that eligibility determination.

The Marketplace scheduled a telephone hearing and, on January 12, 2015, sent you a notice that a Hearing Officer would be contacting you at about 1:00 p.m. on January 28, 2015.

On January 28, 2015, a Hearing Officer from the Marketplace's Appeals Unit contacted you and you requested to have the telephone hearing adjourned to the next day, January 29, 2015 at 3:30 p.m. The Hearing Officer agreed to adjourn the hearing for your convenience and you agreed to waive formal notice at the time of the rescheduled hearing.

On January 29, 2015, you were contacted by a Hearing Officer and, while under oath, agreed to waive formal notice of the adjourned telephone hearing. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit your 2015 benefits letter from the Social Security Administration and proof of payment of health insurance for January and February 2015.

On February 7, 2015, the Marketplace's Appeals Unit received a 6 page fax from you. It consisted of: (1) A cover page; (2) A benefits letter regarding your 2015 disability benefits from the Social Security Administration, dated February 6, 2015; and (3) Two pages of online monthly payment statements for January 2015 and February 2015 from Empire Blue Cross Blue Shield. This fax was made part of the record and marked as "Appellant's Exhibit A."

Since the requested documents were received, the record was closed that same day.

Findings of Fact

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

- 1) You testified that you are the only person in your tax household and you will not be filing a federal income tax return for 2015.

- 2) You testified and provided documentary proof that your expected income for the 2015 tax year is \$17,004.00 (\$1,417.00 per month), which is the annual amount you receive from Title II Social Security Disability Benefits (Appellant's Exhibit A, pp. 2-3).
- 3) You testified that in September 2014, you were determined eligible for Medicare Part A and B. You received your Medicare card for Part A coverage and are currently receiving Medicare Part A.
- 4) You further testified that you opted out of Medicare Part B coverage in September 2014 because you were enrolled in a qualified health plan through the Marketplace at that time and were receiving advance premium tax credits that made your monthly premium responsibility less expensive than Medicare Part B.
- 5) You testified that when you learned you were no longer eligible for an advance premium tax credit as of 2015, you purchased coverage from Blue Cross Blue Shield and paid the full monthly premium of \$433.69 for both January 2015 and February 2015.
- 5) According to your Marketplace account, you did not enroll in a qualified health plan during 2015 through the Marketplace. You purchased a plan outside the Marketplace at full cost.
- 6) You testified that you will have Medicare Part B coverage as of March 1, 2015, but want to be reimbursed for the premiums you paid for health insurance in January 2015 and February 2015, which is \$433.69 per month.

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)).

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Minimum Essential Coverage

Minimum essential coverage includes, but is not limited to, coverage under:

- Government sponsored programs, such as Medicare, Medicaid, CHIP, and TRICARE;
- Employer-sponsored plans; and
- Plans in the individual market

(26 USC § 5000A(f)).

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 2013 FPL, which is \$11,490.00 for a one-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be 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).

A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services (see NYS Social Services Law § 367a(b), 18 NYCRR § 360-7.5, GIS 02 MA/019). Cost-effectiveness may be determined by comparing what it would cost Medicaid to provide coverage to the cost of the premiums for the health insurance policy.

Legal Analysis

The issues raised on appeal are whether the Marketplace properly determined that you were not eligible for an advance premium tax credit (APTC) or Medicaid,

effective January 1, 2015, and whether you are eligible for reimbursement of the health insurance premiums you paid for January and February 2015.

In order to be eligible for APTC, a person must meet financial and nonfinancial eligibility standards. Two such standards are that the person must plan to file a federal income tax return for the year benefits are sought and must not have minimum essential coverage from a government-sponsored program outside of the individual Marketplace.

According to your testimony, you do not plan to file a federal tax return for 2015. Also, the record indicates that you became eligible for Medicare Part A and Part B in September 2014. This means you have minimum essential coverage from a government-sponsored program outside of the individual market. Therefore, the Marketplace properly determined that, in 2015, you are not eligible for APTC.

Also under review is whether, as of December 31, 2014, you qualified for Medicaid coverage effective January 1, 2015.

To qualify for Medicaid in the Marketplace, a person who is between the ages of 19 and 65 must not be entitled to or enrolled in Medicare Part A or Part B and must have a household modified adjusted gross income that is at or below 138% of the federal poverty level (FPL).

According to the record, you are in a one-person household. On December 31, 2014, the FPL for your household was \$11,670.00, so you would be eligible for Medicaid with a household income no greater than \$16,105.00 (138% of \$11,670.00). With an attested income \$17,004.00, you did not meet the financial requirement to qualify for Medicaid. Since you were entitled to Medicare Part A and Part B, you also did not meet the nonfinancial requirements for Medicaid.

Since the December 22, 2014 and January 1, 2015 notices of eligibility determination properly stated that you were not eligible for APTC or Medicaid, they are correct and are AFFIRMED.

A person who is eligible for Medicaid may be eligible for reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and therefore reduces the cost of providing Medicaid services. Since you were not eligible for Medicaid during January and February 2015, you also are not eligible to be reimbursed for the health insurance premiums you paid for coverage for those months.

Decision

The December 22, 2014 notice of eligibility determination is AFFIRMED.

The January 1, 2015 notice of eligibility determination is AFFIRMED.

Effective Date of this Decision: April 24, 2015

How this Decision Affects Your Eligibility

You do not qualify for an advance premium tax credit or Medicaid through the New York State of Health Marketplace.

Since you were not eligible for Medicaid during January and February 2015, you also are not eligible to be reimbursed for the health insurance premiums you paid for coverage for those months.

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.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The December 22, 2014 notice of eligibility determination is AFFIRMED.

The January 1, 2015 notice of eligibility determination is AFFIRMED.

You do not qualify for an advance premium tax credit or Medicaid through the New York State of Health Marketplace.

Since you were not eligible for Medicaid during January and February 2015, you also are not eligible to be reimbursed for the health insurance premiums you paid for coverage for those months.

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]