



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

Notice of Decision

Decision Date: May 13, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001366

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 29, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s November 6, 2014 notice of 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 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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Issue

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

Did the Marketplace properly determine that you are eligible for an advance premium tax credit in the amount of \$170.68 effective January 1, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid effective January 1, 2015?

Procedural History

On November 6, 2014, the Marketplace issued a notice advising you of your 2015 eligibility, which had been determined using information from federal and state data sources. You were notified that, effective January 1, 2015, you were eligible to enroll in a qualified health plan through the Marketplace with a tax credit of up to \$170.68 per month. You were also notified that you were ineligible for Medicaid effective January 1, 2015.

On December 22, 2014, you sent a letter to the Marketplace requesting an appeal regarding the Marketplace's decision to not reenroll you in Medicaid for 2015.

On January 29, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken during the hearing. The record is now complete and closed.

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Findings of Fact

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

1. You plan to file a 2015 federal income tax return with the tax status of single and claim no dependents on that tax return.
2. You testified that you were unemployed from July 2013 until December 15, 2014.
3. You testified that you began a new job on December 15, 2014.
4. You testified that you work approximately thirty-nine hours per week at the hourly rate of \$12.00 per hour.
5. You testified that you have been withdrawing money from your Individual Retirement Account (IRA) in order to pay for your monthly living expenses. You will be charged a 10% penalty fee along with taxes due to the Internal Revenue Service (IRS) because you are withdrawing money before the age of 59 ½ (Appellant Exhibit A).
6. You testified that in November 2014 you received a \$2,500.00 IRA distribution, and your account will be charged \$3,128.91.
7. You testified that in December 2014 you received a \$2,000.00 IRA distribution, and your account will be charged \$2,503.14.
8. You testified that you cannot not project your anticipated 2015 income.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Modified Adjusted Gross Income:

A tax filer's household income includes the modified adjusted gross income (MAGI) of all the individuals in the taxpayer's family who are required to file a federal tax return for the taxable year (26 CFR § 1-36B-1(e)(1)).

Under the Internal Revenue Code, "'modified adjusted gross income' means adjusted gross income increased by -- (i) any amount excluded from gross income under section 911 (which includes foreign earned income and the cost of housing for the individual), (ii) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and (iii) an amount

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equal to the portion of the taxpayer's social security benefits (as defined in section 86(d) which is not included in gross income under section 86 for the taxable year" (26 USC § 36B(d)(2)(B)).

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, etc. (26 USC § 61).

To verify household income and family household size for annual renewals, the Marketplace obtains income tax return data and information on family size from the Secretary of the Treasury (45 CFR §155.320 (c)(1)(i)).

When verifying household income to determine advance premium tax credit (APTC) eligibility, "[t]o the extent that the data described in [45 CFR §155.320 (c)(1)(i)] is unavailable, or an applicant attests that a change in circumstances has occurred or is reasonably expected to occur, and so it does not represent an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must require the applicant to attest to the tax filer's projected household income for the benefit year for which coverage is requested" (45 CFR §155.320 (c)(3)(ii)(C)).

Advance Premium Tax Credit:

An advance premium tax credit (APTC) is available to a tax filer who expects to (1) have a household income of at least 100% but not more than 400% of the Federal Poverty Level (FPL) and (2) claim a personal exemption deduction on his or her tax return for an applicant who is eligible to enroll in a qualified health plan and can obtain minimum essential coverage only through the individual Marketplace (45 CFR § 155.305(f); 26 CFR 1.36B-2).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of insurance premiums must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and the actual income reported on their tax return. A person who takes a lower advance tax credit than the maximum they are entitled to may receive an income tax refund. A person who takes a higher advance tax credit than they can claim when they file their tax return will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Medicaid

An individual is eligible for enrollment in Medicaid when she meets the nonfinancial criteria and has a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)).

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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), 435.911(b)(1), 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 currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(2); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for \$170.68 in advance premium tax credit (APTC).

According to the record, you are in a one-person tax household because you expect to file your 2015 federal income tax return with the tax status of single and claim no dependents on that return.

According to the November 6, 2014 notice, federal and state data sources accessed on November 5, 2014 indicated that your income was between \$16,105.00 and \$46,680.00 and that you were eligible for APTC of up to \$170.68 per month.

You testified that you were unemployed from July 2013 until December 15, 2014. On December 15, 2014, you began working at new job and testified that you work approximately thirty-nine hours per week at the hourly rate of \$12.00 per hour.

Although you contended during your hearing that you are entitled to more financial assistance than is provided in the November 6, 2014 notice, you did not testify on the amount of expected household income you expect to have during 2015.

Since at the hearing you did not testify to the amount of your expected household income for 2015, the most reliable income information in the record remains the information obtained from State and Federal data sources on November 5, 2014. According to this information you are eligible for up to \$170.68 per month of APTC.

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (according to data provided to the Marketplace) with their actual income (stated on their income tax return). Those who take less tax credit in advance than they claim on the tax return may have their taxes reduced or get the rest of the credit as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes.

Since the record does contain your actual income for November 2014, it is possible to consider, as a second issue, whether or not you were eligible for Medicaid as of November 16, 2014. 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 preliminary eligibility determination, federal and state data sources show that your income exceeds \$16,105.00 (138% FPL).

Financial eligibility for Medicaid for applicants who currently receive Medicaid benefits may be based on current monthly household income and family size. To be eligible for Medicaid, you must meet the non-financial criteria and have an income no greater than 138% of the FPL which is \$1,343.00 per month for a one-person household.

According to your credible testimony, you are withdrawing money from your Individual Retirement Account (IRA) in order to pay for your monthly living expenses. You will be charged a 10% penalty fee along with taxes due to the Internal Revenue Service (IRS) because you are withdrawing money before the age of 59 ½ (Appellant Exhibit A). You testified that in November 2014 you received a \$2,500.00 IRA distribution, and your account will be charged \$3,128.91. Since your IRA distribution amount exceeds the \$1,343.00 monthly maximum for Medicaid eligibility, the Marketplace properly found you to be not eligible for Medicaid coverage.

Decision

The November 6, 2014, notice of eligibility determination is **AFFIRMED**.

Effective Date of this Decision: May 13, 2015

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How this Decision Affects Eligibility

This Decision does not change your eligibility.

You remain eligible for an advance premium tax credit of up to \$170.68 per month. You are not eligible for Medicaid.

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:
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Summary

The November 6, 2014, notice of eligibility determination is AFFIRMED.

This Decision does not change your eligibility.

You remain eligible for an advance premium tax credit of up to \$170.68 per month. You are not eligible for Medicaid.

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]