



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

Notice of Decision

Decision Date: May 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001419

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 6, 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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Decision

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Appeal Identification Number: AP000000001419

[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 as of January 5, 2015 you were eligible to receive \$0.00 per month in advance premium tax credit?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions as of January 5, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid as of January 5, 2015?

Procedural History

On January 5, 2015, you updated your application for health insurance for the 2015 open enrollment renewal period.

On January 6, 2015, the Marketplace issued an eligibility determination notice in your case. That notice stated that you were newly eligible to receive \$0.00 in advance premium tax credit. You were not eligible for cost-sharing reductions or for Medicaid because your income was over the allowable limits for those programs.

On January 9, 2015, you spoke with the Marketplace's Account Review Unit and appealed that eligibility determination.

On February 9, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days for you to submit evidence of your household's income as directed by the Hearing Officer. On February 12, 2015, the evidence was faxed to the Appeals Unit. The record is now closed.

Findings of Fact

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

- 1) You testified that you are the only member of your household seeking insurance through the Marketplace at this time.
- 2) You testified that you plan on filing your 2015 tax return as married filing jointly and that you will claim no dependents on that income tax return.
- 3) As of January 5, 2015, your application listed a household income of \$49,000.00. This amount included \$10,000.00 in earned income from you, and \$39,000.00 in income from your spouse.
- 4) You testified that the income amounts that were listed on your application at the time of the January 5, 2015 application are no longer accurate.
- 5) You testified that you are now unemployed. You provided a letter from [REDACTED] which states your employment was terminated on January 14, 2015.
- 6) You testified that you received your last check from your job in January and the amount of that check was around \$750.00.
- 7) You testified that you are not eligible to receive unemployment benefits. You provided a monetary benefit determination from the New York State Department of Labor which stated you do not qualify for unemployment benefits because you did not work and receive wages in at least two calendar quarters and you were not paid at least \$1,900.00 in wages in one of your calendar quarters.
- 8) You testified that you do not expect to receive any income from February 2015 onward.
- 9) You testified that your spouse is now unemployed. You provided a letter from [REDACTED] which states that his employment was terminated effective January 9, 2015.

- 10) You testified that your spouse received his last paychecks and severance pay from [REDACTED] in January. You provided copies of three checks from [REDACTED] that totaled \$4,224.98 that were deposited into your bank account on January 24, 2015.
- 11) You testified that you thought your spouse was receiving unemployment benefits but you were not sure of the duration or the amount. You provided a printout of your spouse's Official Record of Benefit Payment History from the New York State Department of Labor. The record shows that the effective date of his claim was February 24, 2014 and that his benefit year ends effective March 1, 2015. The record further states that he has a maximum payable amount of \$10,550.00 and that the remaining balance of that amount is \$410.00.
- 12) Your spouse's Official Record of Benefit Payment also shows that for 2015, he received benefits on January 18, 2015; February 1, 2015; and February 8, 2015. Each payment he received was for \$410.00.
- 13) You also testified that your spouse is receiving Social Security Benefits. You provided a letter from the Social Security Administration that states that as of December 2014 he will receive \$1,224.00 each month.
- 14) You testified that the only income that your spouse expects to receive in the future is from his Social Security Benefits.
- 15) You testified that you will not be taking any deductions on your 2015 tax return.
- 16) You testified that you reside in Washington County, New York.
- 17) You testified that you would like your eligibility redetermined 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

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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 the 2015 tax year is set by federal law at 2.1% to 9.56% of annual household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution for the 2015 tax year is 9.56% 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 2014 FPL, which is \$15,730.00 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 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 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

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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 (80 Fed. Reg. 3236, 3237).

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 were eligible for an advance premium tax credit (APTC) of \$0.00 per month.

In the application that was submitted on January 5, 2015, you attested to an expected yearly household income of \$49,000.00, and the eligibility determination relied upon that information.

According to the record you expect to file your taxes as married filing jointly and claim no dependents on that tax return, therefore you are in a household of two people.

You reside in Washington County, where the second lowest cost silver plan available to an individual through the Marketplace costs \$331.49 per month.

An annual income of \$49,000.00 is 311.51% of the 2014 federal poverty level (FPL) for a two-person household. At 311.51% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$390.37 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$331.49 per month) minus your expected contribution (\$390.37 per month). Because your expected contribution amount is above the cost of the second lowest cost silver plan, the Marketplace correctly determined your APTC to be \$0.00 per month.

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 \$49,000.00 is 311.51% of the 2014 FPL, the Marketplace correctly found you to be not eligible for cost-sharing reductions.

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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 \$49,000.00 is 311.51% 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 January 6, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of \$0.00 per month, not eligible for cost-sharing reductions, and not eligible 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 evidence that since the time of your application, you and your spouse both lost your jobs, which changed your expected income for 2015.

According to your testimony, your annual income for 2015 will consist of \$750.00 in income from your job before your employment ended. Your spouse's 2015 income will consist of \$1,640.00 in unemployment benefits that he received on January 18, 2015; February 1, 2015; and February 8, 2015, as well as the \$410.00 he has remaining in unemployment benefits according to the benefits report you provided, \$4,224.98 in income from [REDACTED], and \$14,688.00 in Social Security Benefits (\$1,224.00 per month). This results in an expected 2015 household income of \$21,302.98.

However, according to the information you provided, your future household income is expected to consist entirely of your spouse's Social Security benefits, because his unemployment benefits will be exhausted as of March 1, 2015.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Here, the record suggests that the Marketplace determined your eligibility by expected annual income but not by current monthly income. The evidence that you provided on appeal shows that your household income changed no later than March 1, 2015. Therefore, although the determination on appeal was correct when it was made, this case will be returned to the Marketplace for redetermination of your eligibility using a household income of \$1,224.00 per month. This most accurately reflects your household's monthly income going forward.

The case is returned to the Marketplace to redetermine your eligibility for financial assistance based on two-person household in Washington County, with an annual expected income of \$21,302.98 and a monthly income from March 2015 of \$1,224.00.

Decision

The January 6, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace for redetermination of your eligibility for financial assistance based on a two-person household in Washington County, with an annual expected income of \$21,302.98 and expected monthly income, for March 2015 and later, of \$1,224.00.

Effective Date of this Decision: May 22, 2015

How this Decision Affects Your Eligibility

This decision does not decide your final eligibility.

It returns your case to the Marketplace to redetermine your eligibility for financial assistance based on a two-person household in Washington County, with an annual expected income of \$21,302.98 and a monthly income, for March 2015 and later, of \$1,224.00.

The Marketplace will redetermine your eligibility and issue a new eligibility determination notice.

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

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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 January 6, 2015 eligibility determination is **AFFIRMED**.

This decision does not decide your final eligibility.

It returns your case to the Marketplace to redetermine your eligibility for financial assistance based on a two-person household in Washington County, with an annual expected income of \$21,302.98 and a monthly income, for March 2015 and later, of \$1,224.00.

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]