



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

Notice of Decision

Decision Date: July 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001429

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 9, 2015 disenrollment notice.

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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Decision

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NY State of Health Number: [REDACTED]
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[REDACTED]
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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly terminate you and your spouse's health insurance coverage with MVP Health Care effective January 31, 2015?

Procedural History

The Marketplace sent you a notice on November 7, 2014, stating that it was time to renew your NY State of Health insurance coverage for 2015. It also stated that you, your spouse and your oldest son are eligible for a tax credit of up to \$945.33 per month, eligible for the advance premium tax credit (APTC) Premium Assistance Program, and eligible for cost-sharing reductions.

On December 9, 2014, the Marketplace issued a notice that you and your spouse were enrolled in MVP Premier Plus HDHP Silver 3 Silver NS INN Dep25 Acupuncture Home Health Care Wellness Drugs Wellness ("MVP Premier") plan effective January 1, 2015. It further stated that you and your spouse had a premium responsibility of \$0.00 after applying the maximum APTC of \$630.22 per month, and applying the premium paid by New York State of \$355.50 per month.

On December 30, 2014, the Marketplace received your modified application for health insurance, which included an expected household income of \$27,570.00 for the 2015 tax year.

On December 31, 2014, the Marketplace issued a notice stating that you, your spouse and your oldest son may be eligible for health insurance through NY State of Health but more income information is needed to make a determination.

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The Notice further stated that the income information you provided does not match what NY State of Health obtained from State and Federal data sources and that an eligibility determination cannot be made until you provide additional information. It further stated that in order for your eligibility to be determined, you must submit income documentation for your household by January 17, 2015, to confirm your eligibility.

On January 9, 2015, the Marketplace issued a disenrollment notice terminating coverage with MVP Premier for you and your spouse effective January 31, 2015. The notice further stated that you and your spouse's insurance was terminated because you "are no longer eligible to remain enrolled in [your] **current** health insurance."

On January 12, 2015, you spoke with the Marketplace's Account Review Unit and appealed that notice insofar as it terminated you and your spouse's coverage with MVP Premier.

On February 13, 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 up to 15 days to give you an opportunity to submit supporting income documentation. On February 26, 2015, two documents were uploaded to your account. They included a cover letter signed by you and a copy of your 2014 tax return. These documents have been marked collectively as Appellant's Exhibit A and are part of the record. The record was closed on February 28, 2015.

Findings of Fact

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

- 1) The record reflects that you currently live with your spouse and your two sons, ages 23 and 15.
- 2) You are only appealing the eligibility determination for yourself, your spouse and your oldest son.
- 3) According to your December 30, 2014, application, you expect to file your 2015 federal income tax return jointly with your spouse and claim both of your sons as dependents.
- 4) At the hearing, you testified that you do not expect to claim your oldest son as a dependent for the 2015 tax year.
- 5) You testified that you and your spouse are both self-employed as carpenters, therefore your income fluctuates and is hard to predict.

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You further testified that you keep track of your income by filing yearly federal income tax statements.

- 6) You testified that you modified your application on December 30, 2014, after you received the renewal notice issued by the Marketplace. It was at that time that you changed your expected income to \$27,570.00 for the 2015 tax year. You further testified that at the time of your December 30, 2014 application, you had not yet obtained your tax statements and therefore could not submit this proof.
- 7) At the hearing, you testified that you expect to have a household income of \$25,000.00 for the 2015 tax year.
- 8) Your 2014 tax return was uploaded to your account on February 26, 2015. That tax return indicates your filing status for 2014 as married filing jointly, claiming your two sons as dependents, with an adjusted gross income of \$5,789.00 (Appellant's Exhibit A).
- 9) You testified, and the record reflects that you currently reside in Ulster County, NY.

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)).

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

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

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date of your application, that was the 2014 FPL, which is \$23,850.00.00 for a four-person household (79 Fed. Reg. 3593, 3593).

On the date of your application, the 2014 FPL was \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

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)).

Family size means the number of persons counted as a member of an individual's household. In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 still the 2014 FPL, which is \$23,850.00 for a four-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).

People who receive or are eligible for Medicaid are not eligible for an advance premium tax credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The only matter at issue is whether the Marketplace properly disenrolled you and your spouse from your coverage with MVP Health Care effective January 31, 2015.

According to the December 30, 2014 Marketplace application, you live in a household which includes you, your spouse and your two sons. In that same application, you attested that you expect to file jointly with your spouse and claim your two children as dependents for the 2015 tax year. Therefore, based on that application, you are a tax household of four people.

According to the December 30, 2014 Marketplace application, you attested to an expected household income of \$27,570.00 for the 2015 tax year. The eligibility determination relied upon that information.

On the date of that application, the relevant federal poverty level (FPL) was \$23,850.00 for a four-person household. 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 138.00% of the FPL for the applicable family size.

Since \$27,570.00 is 115.6% of the relevant FPL for a four-person household, you and your spouse may have been eligible for Medicaid based on your attested household income.

People who receive or are eligible for Medicaid are not eligible for an advance premium tax credit (APTC) since they have, or will soon have, active coverage in the system.

The record reflects that you and your spouse were enrolled in MVP Premier with a premium responsibility of \$0.00 per month, after applying a maximum APTC amount of \$630.22 per month, and applying the premium paid by New York State of \$0.00 per month.

However, when you modified your application on December 30, 2014, you and your spouse may have been eligible for Medicaid based on your attested household income. Since you and your spouse may have been eligible for Medicaid, you were no longer eligible to receive APTC.

Therefore, the Marketplace correctly determined that you and your spouse were no longer eligible to remain enrolled in your current health insurance plan as it was purchased using APTC, and properly terminated you and your spouse's health insurance coverage with MVP Premier effective January 31, 2015.

The Marketplace's January 9, 2015 disenrollment notice is **AFFIRMED**.

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Decision

The January 9, 2015 disenrollment notice is AFFIRMED.

This decision has no effect on any determination made after January 9, 2015.

Effective Date of this Decision: July 3, 2015

How this Decision Affects Your Eligibility

This decision does not change the eligibility for you, your spouse or your sons.

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 January 9, 2015 disenrollment notice is AFFIRMED.

This decision has no effect on any determination made after January 9, 2015.

This decision does not change the eligibility for you, your spouse or your sons.

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]