



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

Notice of Decision

Decision Date: June 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001509

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 27, 2014 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).

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 NY State of Health are:

Did the Marketplace properly determine that you and your wife were eligible for up to \$634.00 per month in advance premium tax credits, as well as cost-sharing reductions if you enrolled in a silver level plan, effective February 1, 2015?

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

Procedural History

On December 15, 2014, the Marketplace received your modified application for health insurance.

On December 16, 2014, the Marketplace issued a notice stating that you and your wife might be eligible to obtain health insurance through the Marketplace, but that more information was needed to make a determination.

On December 17, 2014, December 18, 2014, and December 19, 2014, you uploaded paystubs from November and December 2014 on behalf of yourself and your wife.

On December 26, 2014, the Marketplace issued a disenrollment notice that stated coverage under your Medicaid managed care plan for you and your wife

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would end effective December 31, 2014 and that your Medicaid Fee-For-Service coverage would be discontinued as of December 31, 2014.

On December 27, 2014, the Marketplace issued an eligibility redetermination notice that stated you and your wife were eligible to receive up to \$634.00 per month in advance premium tax credits (APTC) and, if you select a silver level health plan, cost-sharing reductions. The notice further stated that you and your wife were not eligible for Medicaid because your household income of \$28,135.31 was over the allowable limit for that program. This eligibility was effective February 1, 2015.

On January 20, 2015, you spoke with the Marketplace's Account Review Unit and appealed that eligibility determination insofar as it applies to your eligibility for Medicaid for the month of January.

On February 25, 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 to allow you time to submit evidence of your household's income for the month of January 2015. On February 26, 2015, the Appeals Unit received a fax from you that contained January 2015 paystubs for you and your wife. The record is now closed.

Findings of Fact

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

- 1) You testified that you and your wife plan on filing your 2015 tax return as married filing jointly.
- 2) As of December 26, 2014, your application listed a household income of \$28,135.31. You testified that this was based on the November and December paystubs you had provided for you and your wife to the Marketplace and that this was not an accurate reflection of your household's actual expected income for 2015.
- 3) You testified that you work on commission and your paychecks vary from week to week because it depends on how much you sell. You also testified that your company is "going under" and where you work will close for good in May 2015. You expect your pay to decline until the business officially closes in May.
- 4) You testified that you are paid bi-weekly.

- 5) You provided a paystub dated January 9, 2015 that lists a gross pay of \$613.32. You provided a paystub dated January 23, 2015 that lists a gross pay of \$191.71.
- 6) You testified that your wife is paid weekly.
- 7) You provided your wife's paystub dated January 16, 2015 that lists a gross pay of \$132.39. You provided your wife's paystub dated January 23, 2015 that lists a gross pay of \$105.00. You provided your wife's paystub dated January 30, 2015 that lists a gross pay of \$97.83; this paystub also lists a year-to-date amount of \$952.04.
- 8) Your application states that you reside in ██████ County, New York.
- 9) You testified that you are seeking health insurance coverage for the month of January 2015.

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)).

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 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution for the 2015 tax year is between 4.02% and 6.34% 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 first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$15,790.00 for a two-person household (79 Fed. Reg. 3593, 3593).

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 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, December 26, 2014, 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).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your wife were eligible for an advance premium tax credit (APTC) of up to \$634.00 per month.

In the application that was submitted on December 26, 2014 you attested to an expected yearly household income of \$28,135.31, and the eligibility determination relied upon that information.

According to the record there are two people in your tax household. You plan on filing your 2015 tax return as married filing jointly with your wife, and will claim no dependents on that tax return.

You and your wife reside in Suffolk County, where the second lowest cost silver plan available for a couple through the Marketplace costs \$759.86 per month.

An annual income of \$28,135.31 is 178.86% of the 2014 FPL for a two-person household. At 178.86% of the FPL, the expected contribution to the cost of the health insurance premium is 5.36% of income, or \$125.67 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 a couple in your county (\$759.86 per month) minus your expected contribution (\$125.67 per month), which equals \$634.19 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your wife's APTC to be \$634.00 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 \$28,135.31 is 178.86% of the 2015 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

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 \$28,135.31 is 178.86% of the 2014 FPL, the Marketplace properly found you and your wife to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the December 27, 2014 eligibility determination properly stated that, based on the information you provided, you and your wife were eligible for APTC of up to \$634.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid based on an expected annual income basis, it is correct and is

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AFFIRMED as it pertains to the amount and type of financial assistance you were eligible for.

This determination was based on modifications you made to your application on December 26, 2014 application. The result was that you were eligible for APTC and cost-sharing reductions be effective February 1, 2015.

When an individual changes information in their application after the 15th of any month, the Marketplace must make the redetermination that results from that change effective the first day of the next following month. Therefore, the Marketplace's December 27, 2014 eligibility determination is AFFIRMED as it pertains to the effective date of your financial assistance.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

The credible evidence of record indicates that the information contained on your application did not reflect your income situation for the month of January, nor does it accurately reflect your income situation going forward. You testified that the expected annual income that is currently in your application was based on the November/December paystubs you had provided to the Marketplace and that this is not an accurate reflection of your household's actual expected income for 2015. You testified that you work on commission and your paychecks vary from week to week because it depends on how much you sell. You provided two paystubs that you received in the month of January in the amounts of \$613.32 and \$191.71. You provided your wife's paystub dated January 30, 2015 that lists a gross pay of \$97.83; this paystub also lists a year-to-date amount of \$952.04. Therefore, your household's income for the month of January 2015 is \$1,757.07.

Since the record suggests that the Marketplace determined your eligibility by expected annual income but not by current monthly income, the case should be returned to the Marketplace for a redetermination of your financial eligibility using an income of \$1,757.07 for the month of January 2015.

Therefore, your case is returned to the Marketplace to redetermine you and your wife's eligibility for financial assistance based on a two-person household in ██████ County, with a January 2015 income of \$1,757.07.

Decision

The December 27, 2014 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine you and your wife's eligibility based on a two-person household in ██████ County, with a January 2015 income of \$1,757.07.

Effective Date of this Decision: June 10, 2015

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility for health insurance.

Your case is being returned to the Marketplace to redetermine you and your wife's eligibility for financial assistance based on a two-person household in ██████ County, with a January 2015 income of \$1,757.07.

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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 27, 2014 eligibility determination is AFFIRMED.

This is not a final determination of your eligibility for health insurance.

Your case is being returned to the Marketplace to redetermine you and your wife's eligibility for financial assistance based on a two-person household in ██████ County, with a January 2015 income of \$1,757.07.

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]