



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: AP000000001676

[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 February 4, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by NY State of Health Appeals Unit.

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 Code of Federal Regulation (CFR) 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 were not eligible for advance premium tax credits, effective March 1, 2015, because your income was over the allowable limit for that program?

Did the Marketplace properly determine that, effective March 1, 2015, you were not eligible to receive cost-sharing reductions?

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

Procedural History

On February 3, 2015, the Marketplace received your two modified applications for health insurance. That day, two preliminary eligibility determinations were made, both stating that you were not eligible for financial assistance. However, you could purchase a qualified health plan through the Marketplace at full cost.

Also on February 3, 2015, you spoke with the Marketplace's Account Review Unit and appealed that preliminary eligibility determination as it related to your eligibility for financial assistance.

On February 4, 2015, the Marketplace issued an eligibility determination notice stating that based on your household income of \$48,750.01, you remained eligible to be enrolled in a qualified health plan at full cost. You did not qualify for Medicaid, Child Health Plus, or to receive a tax credit to help pay for the cost of coverage because the income you provided was over the allowable income limits.

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for those programs. You also were not eligible for cost-sharing reductions because you were ineligible to receive an advance premium tax credit.

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 closed at the end of the hearing.

Findings of Fact

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

- 1) At the time of the February 4, 2015 eligibility determination, your application stated that you were divorced and had a tax filing status of single.
- 2) At the hearing, you testified that you were going through a divorce, but that you did not currently have a divorce decree or legal separation and you did not know if you will get one this year. You further testified that the court told you to file your taxes as married filing separately.
- 3) You testified that you have two children but will not claim either of them as dependents on your tax return.
- 4) At the time of the February 4, 2015 eligibility determination, your application listed an annual household income of \$48,750.01. Your account indicates that this amount consisted of \$65,000.01 in income from a job and a \$16,250.00 deduction for "Alimony paid."
- 5) You testified at the hearing that you expect to make \$65,000.00 in income from your job this year, however you do not pay alimony. The \$16,250.00 deduction is actually the amount of money you pay in court-ordered child support.
- 6) You testified that you reside in Queens County, NY.
- 7) You testified that you have a lot of expenses that should be considered when calculating your eligibility including living expenses.
- 8) You testified that the health plans through the Marketplace are unaffordable to you without greater financial assistance.

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)).

In general, a tax filer who is married is eligible for APTC only if he or she files a joint return with his or her spouse (45 CFR § 155.305(f), 45 CFR § 155.310(d), 26 CFR § 1.36B-2).

However, a tax filer will be treated as not married at the close of the taxable year if the individual:

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following requirements:
 - files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child; and
 - pays more than one half of the cost of keeping up his/her home for the tax year; and
 - his/her spouse is not a member of the household during the last six months of the taxable year

(26 USC § 7703(a); 26 USC § 7703(b)).

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 was \$11,670.00 for a one-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, that was the 2015 FPL, which is \$11,770.00 for a one-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).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as an amount equal to the alimony or separate maintenance payments paid during a taxable year (26 USCS § 215(a)).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were not eligible for an advance premium tax credit (APTC) because you were over the allowable income limit.

In the application that was submitted on February 3, 2015, you stated that you were divorced and would be filing your taxes with a tax filing status of single. You also testified that you will claim no dependents on that tax return. Accordingly, you are in a one-person household.

The February 3, 2015 application also listed an annual household income of \$48,750.01. This amount consisted of \$65,000.01 in income from a job and a \$16,250.00 deduction for "Alimony paid", and the eligibility determination that was issued on February 4, 2015 relied on all of the above information.

Since the annual 2014 federal poverty level (FPL) for a one-person household is \$11,670.00, you might qualify for APTC if your annual household income is between \$16,105.00 (138% FPL) and \$46,680.00 (400% FPL).

Your household income of \$48,750.01 places you at 417.74% of the FPL. The maximum income amount for APTC eligibility for a one-person household at the time you applied was \$46,680.00 (400.00% FPL). Since you earn more than the allowable maximum for this program, you are not eligible for APTC based on your attested income level alone.

It is also noted that your application was inaccurate: you are not paying alimony, you are not divorced, and you do not qualify as a "Head of Household." Since the Internal Revenue Service rules also do not allow for child-support payments or

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living expenses to be deducted from the calculation of your adjusted gross income, they also cannot be deducted when the Marketplace computes your modified adjusted gross income (MAGI) for APTC purposes. Therefore, the \$16,250.00 was not properly deducted from your income, and you would not be eligible for APTC regardless of income.

The second issue is whether the Marketplace properly determined that you were not eligible for cost-sharing reductions (CSR). CSR is available to a person who is eligible to receive APTC and has an annual household income that does not exceed 250% of the FPL. You were not eligible for CSR because you were not eligible for APTC and because your income was in excess of the allowable limit for this program.

The third issue is whether the Marketplace properly found you not eligible for Medicaid. 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 MAGI that is at or below 138.00% of the FPL for the applicable family size. On the date of your application, the relevant FPL was the 2015 FPL of \$11,770.00 for a one-person household. Since \$48,750.01 is 414.19% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, based on the information provided.

The February 4, 2015 eligibility determination properly stated that even based on the original information you provided, you were not eligible for APTC, not eligible for CSR, and not eligible for Medicaid. This outcome is correct, regardless of the basis for this decision and the incorrect income relied upon. Therefore, the February 4, 2015 eligibility determination is MODIFIED only to reflect a correct household income of \$65,000.00, and AFFIRMED in all other respects.

You testified that you cannot afford to pay the monthly insurance premium even if you have an APTC and CSR because your expenses exceed your income. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal marketplace website (www.healthcare.gov) for an application.

Decision

The February 4, 2015 eligibility determination is MODIFIED to state that based on your household income of \$65,000.00, you continue to be eligible to remain enrolled in a qualified health plan at full cost.

Effective Date of this Decision: July 3, 2015

How this Decision Affects Your Eligibility

You remain eligible to purchase a qualified health plan at full cost.

You are not eligible for advance premium tax credits, cost-sharing reductions, or 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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Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The February 4, 2015 eligibility determination is MODIFIED to state that based on your household income of \$65,000.00, you continue to be eligible to remain enrolled in a qualified health plan at full cost.

You remain eligible to purchase a qualified health plan at full cost.

You are not eligible for advance premium tax credits, cost-sharing reductions, or Medicaid.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]