



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

Notice of Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001683

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 26, 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 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: AP000000001683

[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 you and your son were eligible to receive up to \$492.00 monthly of advance premium tax credit as of February 4, 2015?

Did the Marketplace properly determine that you and your son were eligible for cost-sharing reductions as of February 4, 2015, if you enroll in a silver-level qualified health plan?

Did the Marketplace properly determine that your daughter was eligible for Child Health Plus with a monthly premium of \$9.00 as of February 4, 2015?

Did the Marketplace properly determine that you and your children were not eligible for Medicaid as of February 4, 2015?

Procedural History

The Marketplace received your application for health insurance on February 3, 2015.

On that same day you spoke to the Marketplace's Account Review Unit and requested an appeal insofar as your eligibility for additional financial assistance through the Marketplace.

On February 4, 2015, the Marketplace issued an eligibility determination notice stating: You and your son are eligible to receive \$492.00 monthly of advance

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premium tax credits and eligible for cost-sharing reductions; Your daughter was determined eligible for Child Health Plus with a \$9.00 monthly premium; Your entire family was not eligible for Medicaid because your household income is over the allowable limit.

On February 26, 2015, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was left open until March 13, 2015, because you were directed to submit additional income documentation.

On March 4, 2015, you submitted your Unemployment Insurance Monetary Benefit Determination from the New York State Department of Labor. The evidence was received by fax by the Appeals Unit, marked as "Appellant's Exhibit A" and made part of the record. The record is now complete and closed.

Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself and your two children (Testimony; 2/3/2015 Marketplace Application).
2. Your marital status is single (2/3/2015 Marketplace Application).
3. You testified that you currently reside with your two children.
4. According to your Marketplace application, your son is [REDACTED] and your daughter is [REDACTED].
5. You testified that you plan on filing a 2015 federal income tax return with the tax status of Head of Household and will claim two dependents on that tax return.
6. According to your February 3, 2015 Marketplace application, your 2015 expected annual household income is \$35,000.00.
7. You testified that your last day of employment was on February 25, 2015, and that you would be filing for unemployment insurance benefits in three days.
8. On March 4, 2015, you submitted your Unemployment Insurance Monetary Benefit Determination from the New York State Department of Labor. You were determined eligible for the weekly benefit rate of \$201.00 with a claim effective date of February 23, 2015 (Appellant Exhibit A).
9. You currently reside in [REDACTED] County, NY.

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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 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), 435.911(b)(1), 435.603(d)(4)).

The maximum amount of APTC that can be approved equals:

1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through the 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 2.1% to 9.56% of annual household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

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 \$19,790.00 for a three-person household (78 Fed. Reg. 5182, 5183).

For annual household income in the range of at least 150% FPL but less than 200% FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3(g)(2)).

Cost-Sharing Reductions:

Cost-sharing reductions 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)).

Child Health Plus (CHP):

To be eligible for CHP, children must be under the age of 19 (NY Public Health Law § 2510(4)).

A child may be eligible for coverage through Child Health Plus (CHP) provided (1) he or she lives in a household having a household income at or below 400% of the FPL and (2) is not eligible for medical assistance (Medicaid), except that a child who becomes eligible for Medicaid after becoming eligible for CHP, may be eligible for a subsidy payment for a period of three months after becoming eligible for such medical assistance (NY Public Health Law § 2511(2)(b) and (3)).

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the FPL (New York Public Health Law § 2511(2)(a)(iii)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL (PHL § 2510(9)(d)(ii)).

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 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 \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

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 March 19, 2014).

Legal Analysis

Advance Premium Tax Credit:

In your February 3, 2015 application, you attested to an expected yearly income in 2015 of \$35,000.00, and the February 4, 2015 eligibility determination relied upon that information.

According to the record, you plan on filing a U.S. Income Tax Return with the tax status of Head of Household (with qualifying individual) and will claim two dependents ([REDACTED]) on your 2015 federal income tax return. Therefore, you are a three-person household.

You reside in [REDACTED] County, where the second lowest cost silver plan that is available through the Marketplace for a primary subscriber and one dependent (you and your 19 year old son) costs \$645.88 per month.

An annual household income of \$35,000.00 equals 176.86% of the 2014 federal poverty level (FPL) for a three-person household. At 176.86% of the 2014 FPL, the expected contribution to the cost of the health insurance premium is 5.27% of income, or \$153.59 per month.

The maximum amount of advance premium tax credit (APTC) that can be awarded equals the cost of the second lowest cost silver plan in your county (\$645.88 per month) minus your expected contribution (\$153.59 per month), which equals \$492.29 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC for you and your son to be \$492.00 per month.

Cost-sharing reductions are available to a person who has an annual expected household income no greater than 250% of the FPL. Since your annual household income is 176.86% of the 2014 FPL, the Marketplace correctly found you and your son eligible for cost-sharing reductions.

Child Health Plus (CHP):

Your 9 year old daughter meets the eligibility requirements for CHP.

A CHP premium payment is required for an eligible child whose family household income is at least 160% of the FPL. The premium is \$9.00 for a family with a household income between 160% and 222% of the FPL. Since your income, which equals 176% of the FPL, falls within that range, the Marketplace was correct when it determined that your daughter's CHP premium would be \$9.00 per month.

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 modified adjusted gross income that is at or below 138% of the FPL for the applicable family size.

On the date of your application, the FPL was \$20,090.00 for a three-person household. Since \$35,000.00 is 176.86% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. To be eligible for Medicaid, you must meet the nonfinancial criteria and have an income no greater than 138% of the FPL. In order to be eligible for Medicaid a household of three must not exceed a monthly income limit of \$2,276.00.

You testified that that your last day of employment was on February 25, 2015, and that you would be filing for unemployment insurance benefits three days from the date of your hearing.

On March 4, 2015, you submitted your Unemployment Insurance Monetary Benefit Determination from the New York State Department of Labor. You were determined eligible for the weekly benefit rate of \$201.00 with a claim effective date of February 23, 2015 (Appellant's Exhibit A).

The record from your February 26, 2015 hearing does not contain sufficient testimony or documents to return your case to Marketplace to recalculate your benefits on a yearly or monthly basis. However, please contact the Marketplace when you have sufficient documentation of your change in income.

Since the February 4, 2015 eligibility determination properly states that you and your 19 year old son are eligible for APTC of up to \$492.00 per month and

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eligible for cost-sharing reductions; your daughter is eligible for CHP with a \$9.00 monthly premium; and you and your family are not eligible for Medicaid based on your February 3, 2015 Marketplace application, it is correct and is AFFIRMED.

Decision

The February 4, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: June 16, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You and your son remain eligible to receive up to \$492.00 monthly of advance premium tax credit and eligible for cost-sharing reductions as of February 4, 2015.

Your daughter remains eligible for Child Health Plus with a monthly premium of \$9.00 as of February 4, 2015.

Your family remains ineligible for Medicaid as of February 4, 2015.

This decision has no effect on any determinations made after February 4, 2015.

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))

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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 February 4, 2015 eligibility determination is AFFIRMED.

You and your son remain eligible to receive up to \$492.00 monthly of advance premium tax credit and eligible for cost-sharing reductions as of February 4, 2015.

Your daughter remains eligible for Child Health Plus with a monthly premium of \$9.00 as of February 4, 2015.

You family remains ineligible for Medicaid as of February 4, 2015.

This decision has no effect on any determinations made after February 4, 2015.

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]