



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: AP000000001686

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 5, 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).

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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001686

[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 determine that you are not eligible to receive financial assistance through the Marketplace?

Procedural History

On May 1, 2014, the Marketplace issued an eligibility determination that stated you were eligible for Medicaid effective April 1, 2014.

On January 8, 2015, the Marketplace issued an eligibility determination notice that stated you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. It also stated that you were not eligible to enroll in a qualified health plan at full cost through the Marketplace. This was because, based on the information from federal and state data sources, you were already enrolled in or eligible for a public insurance program such as Medicare.

On January 9, 2015, the Marketplace issued a disenrollment notice. The notice stated that your Medicaid Fee-For-Service coverage would be discontinued as of January 31, 2015.

On February 4, 2015, your application was modified. That day, the Marketplace made a preliminary eligibility determination, stating you were not eligible to purchase health coverage.

Also on February 4, 2015, you contacted the Marketplace's Account Review Unit and appealed your disenrollment from Medicaid.

On February 5, 2015, the Marketplace issued an eligibility determination notice that stated you were not eligible to receive help to pay for health coverage or to enroll in a qualified health plan at full cost through the Marketplace because based on federal and state data sources, you were already enrolled in or eligible for a public insurance program such as Medicare.

On March 2, 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) You testified that you are the only person in your tax household.
- 2) Your application states that your expected annual income is \$19,608.00. This amount consists of \$18,132.00 in income from Social Security Disability benefits and \$1,476.00 from Pensions & Annuities.
- 3) You testified that the income is on your application is correct.
- 4) You testified that you turned age 64 on [REDACTED].
- 5) You testified that you were found eligible for Medicare Part A on October 1, 2014. You became eligible because you have been certified disabled through the Social Security Administration for at least 24 months.
- 6) You testified that you applied for Medigap insurance and that it will be effective March 1, 2015.
- 7) You testified that you will be paying \$259.00 to be enrolled in Medigap and it will be difficult for you to pay that amount every month. You further testified that you prefer to be on 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 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)).

Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, various government-sponsored plans provide minimum essential coverage, including the Medicare program under part A of title XVIII of the Social Security Act (26 USC § 5000A(f)(1)(A)(i), 42 USCS §§ 1395c et seq.).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available only 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

An individual is eligible for enrollment in Medicaid through the Marketplace (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

The first step in identifying whether an applicant is eligible for MAGI-based Medicaid through the Marketplace is to determine if he or she meets certain nonfinancial criteria. In general, to qualify for MAGI-based Medicaid through the Marketplace, you must either be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B

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- A pregnant woman or infant
- A child aged 1-18
- A parent or caretaker relative

If you fall into one of these categories, the Marketplace must determine your eligibility for Medicaid using modified adjusted gross income (MAGI) rules (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If you do not fall into one of these categories you may be eligible for non-MAGI-based Medicaid coverage through your Local Department of Social Services or the Human Resources Administration (N.Y. Soc. Serv. Law § 366(1)(c)).

Legal Analysis

The issue is whether the Marketplace properly determined that you are not eligible to receive financial assistance to help pay for the cost of health insurance coverage through the Marketplace.

To be eligible for an advance premium tax credit (APTC), a person must not be eligible for minimum essential coverage outside of the Marketplace. Minimum essential coverage includes most government-sponsored insurance plans including Medicare Part A. You testified that you were enrolled in Medicare Part A as of October 1, 2014 and that you would be receiving Medigap coverage as of March 1, 2015. Therefore, you are not eligible for APTC.

Cost-sharing reductions are available to a person who is eligible to receive APTC and has an annual household income that does not exceed 250% of the federal poverty level (FPL). Since you are not eligible for APTC, you are also not eligible for cost-sharing reductions.

To be eligible for Medicaid through the Marketplace, a person cannot be entitled to or enrolled in Medicare Part A or B. You testified that you were enrolled in Medicare Part A as of October 1, 2014 and that you would be receiving Medigap coverage as of March 1, 2015. Therefore, you are not eligible for Medicaid through the Marketplace.

The Marketplace does not have the authority to decide if you qualify for non-MAGI-based Medicaid. Since you may be eligible for Medicaid on a non-MAGI basis, the Marketplace will refer your case to the New York City Human Resources Administration for consideration.

The New York City Human Resources Administration will determine your eligibility for Medicaid on a non-MAGI basis.

For more information about non-MAGI eligibility requirements for Medicaid, you can contact the New York City Human Resources Administration. A listing of offices can be found at <http://www.nyc.gov/html/hra/html/home/home.shtm>.

Decision

The February 5, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 16, 2015

How this Decision Affects Your Eligibility

You do not qualify for advance premium tax credits, cost-sharing reductions, or MAGI Medicaid through the Marketplace.

The Marketplace does not have the authority to decide if you qualify for non-MAGI 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.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 5, 2015 eligibility determination notice is **AFFIRMED**.

You do not qualify for advance premium tax credits, cost-sharing reductions, or MAGI Medicaid through the Marketplace.

The Marketplace does not have the authority to decide if you qualify for non-MAGI Medicaid.

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]