



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: AP000000001712

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 6, 2015 preliminary eligibility determination and February 7, 2015 notice of 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).

This page intentionally left blank.



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

Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001712

[REDACTED]
[REDACTED]
[REDACTED]

Issue

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you are eligible to receive an advance premium tax credit (APTC) of up to \$211.00 monthly and, if you select a silver-level qualified health plan (QHP), for cost-sharing reductions (CSR) as of February 6, 2015?

Did the Marketplace properly determine that you are not eligible for Medicaid as of February 6, 2015?

Procedural History

From March 1, 2014 to December 31, 2014, you were enrolled in a silver-level qualified health plan (QHP) through New York State of Health and received \$304.00 monthly in advance premium tax credit (APTC).

On December 17, 2014, the Marketplace prepared a preliminary eligibility redetermination based on your updated application information and found you eligible to receive APTC up to \$211.00 monthly and eligible for cost-sharing reductions (CSR) beginning January 1, 2015.

You modified your application several times since then, including on February 6, 2015. On that date, the Marketplace prepared a preliminary eligibility determination that you

are eligible to receive APTC up to \$211.00 and, if you select a silver-level QHP, eligible for CSR, effective March 1, 2015.

That same day, you appealed the preliminary eligibility redetermination insofar as you were eligible for APTC and CSR and wanted to be covered under Medicaid.

On February 7, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the February 6, 2015 preliminary eligibility redetermination. That notice also said that you were ineligible for Medicaid because the income you provided of \$20,072.00 was over the allowable income limit of \$16,105.00.

On February 17, 2015, the Marketplace issued a Notice of Telephone Hearing to advise you that the hearing you requested was scheduled for March 6, 2015 at 1:00 p.m.

On March 6, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to submit supporting documentation. The record was to be closed on March 21, 2015 or upon receipt of the requested documents, whichever occurred earlier.

On March 18, 2015, the Marketplace's Appeals Unit received a five page fax from you. It consisted of: (1) A cover page; (2) A bar code page; (3) Copies of your last two Statements of Earnings; and (4) A March 2, 2015 note giving your two week notice of ending your employment. This fax was made part of the record as "Appellant's Exhibit A."

Since all of the requested documents had been received, the record was closed that same day.

Findings of Fact

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

1. You reside in ██████████ County, New York.
2. You plan on filing your 2015 federal tax return as single and will not be claiming any dependents.
3. According to your Marketplace account, your attested 2015 household income is \$20,072.00.
4. You testified and provided documentary evidence that you resigned from your position with your employer on March 2, 2015 (Appellant's Exhibit A, p.5).

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).

5. You testified that your last day of employment with that employer was March 5, 2015.
6. You testified that you had already received one paycheck in March 2015, dated March 6, 2015, with a gross income amount of \$617.60, which covered the period from February 21 to February 27, 2015.
7. You testified that you expected to receive one more paycheck in March 2015 to cover your work for the first week of March. You expected that paycheck to be mailed to you on or around March 12, 2015.
8. You testified that these were the only two paychecks you expected to receive in the month of March 2015.
9. You testified that you did not expect to receive income from any other source in March 2015, but hoped to pass a background check and gain new employment in April 2015. You did not know at the time of the hearing if or when you would be successfully employed.
10. After the hearing, you provided documentary evidence of the two paychecks you received in March 2015: (1) Dated 3/6/2015 for \$617.60 for the pay period of 2/21/2015 – 2/27/2015; and (2) Dated 3/13/2015 for \$554.98 for the pay period of 2/28/2015 – 3/6/2015 (Appellant's Exhibit A, pp.3-4).

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 2014 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

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).

- 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 is set by Federal law at 2.01% to 9.56% of annual household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 250% but less than 300% of the FPL, the expected contribution is between 8.10% and 9.56% 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 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 \$11,670.00 for a one-person household (78 Fed. Reg. 5182, 5183).

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 for Adults between the Ages of 19 and 65

Medicaid through the Marketplace can be provided 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), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

"Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan may be deducted from adjusted gross income in an amount up to \$2,500 in interest

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).

paid by taxpayers during the taxable year, for taxpayers whose yearly income does not exceed \$160,000 (26 USC § 221; see also (26 USC § 62 (a)(17))). Deductions that are attributable to a trade or business are also allowed (26 USC § 62 (a)(1)).

Most adults determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve-month period. This twelve-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on MAGI (N.Y. Soc. Serv. Law § 366(4)(c)).

People who receive or are eligible for Medicaid are not eligible for an APTC (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B2(c)(2)).

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 updated application of February 6, 2015 that was the 2014 FPL, which is \$11,770.00 for a one-person household (79 Fed. Reg. 3593, 3593).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$211.00 per month and eligible for cost-sharing reductions (CSR).

In the application that was submitted on February 6, 2015, you attested to an expected yearly income of \$20,072.00, which was your expected 2015 household income at that time. The eligibility determination of that date relied upon that information.

According to the record, you are the only person in your tax household.

You reside in ██████████ County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$295.03 per month.

An annual income of \$20,072.00 is 172% of the 2014 federal poverty level (FPL) for a one-person household. At 172% of the FPL, the expected contribution to the cost of the health insurance premium is 5.04% of income, or \$84.30 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 an individual in your county (\$295.03 per month) minus your expected contribution (\$84.30 per month), which

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).

equals \$210.73 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$211.00 per month.

CSR is available to a person with a household income no greater than 250% of the FPL. Since a household income of \$20,072.00 is 172% of the 2014 FPL, the Marketplace correctly found you to be eligible for CSR.

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 138.0% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. By that standard, \$20,072.00 is 170.54% of the FPL. Therefore the Marketplace properly found you to be ineligible for Medicaid coverage on the information provided at that time.

Since the February 7, 2015 notice of eligibility redetermination properly stated that, based on the information you provided, you were eligible for APTC of up to \$211.00 per month, eligible for CSR, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation. You testified that as of March 2, 2015, you resigned from your employment; that your last day of employment was March 5, 2015; and that you expected to receive two pay checks in the month of March from your employer. On March 18, 2015, you provided copies of the two checks you received in the month of March, one dated March 6, 2015 and the other dated March 13, 2015, which together totaled \$1,172.58 of gross income for March 2015. You further testified that you did not expect to receive any additional income in March of 2015, but hoped to become employed sometime in April 2015.

Therefore, your monthly income for March 2015, the month that you need health insurance was \$1,172.58.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Since the record suggests that the Marketplace calculated your February 6, 2015 eligibility by expected annual income but not by monthly income, your case is returned to the Marketplace for a redetermination of eligibility for financial assistance based on a one-person household, using the income amount of \$1,172.58 for the month of March 2015.

Decision

The February 7, 2015 eligibility determination, as made on February 6, 2015, is AFFIRMED.

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).

Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on a one-person household and income of \$1,172.58 for the month of March 2015.

Effective Date of this Decision: June 16, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$211.00 monthly and eligible for cost-sharing reductions, effective March 1, 2015.

However, this decision does not decide your final eligibility. It returns your case to the Marketplace to redetermine your eligibility based on a one-person household and your corrected income of \$1,172.58 for the month of March 2015.

The Marketplace will redetermine your eligibility and issue a new eligibility determination notice, if it has not already done so.

This decision does not affect any notice of eligibility determination issued after February 7, 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)).

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).

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 7, 2015 eligibility determination, as made on February 6, 2015, is **AFFIRMED**.

You remain eligible for an advance premium tax credit of up to \$211.00 monthly and eligible for cost-sharing reductions, effective March 1, 2015.

However, this decision does not decide your final eligibility. It returns your case to the Marketplace to redetermine your eligibility based on a one-person household and your corrected income of \$1,172.58 for the month of March 2015.

The Marketplace will redetermine your eligibility and issue a new eligibility determination notice, if it has not already done so.

This decision does not affect any notice of eligibility determination issued after February 7, 2015.

Legal Authority

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

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).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]