



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

Notice of Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001727

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s January 21, 2015 eligibility determinations.

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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001727

[REDACTED]
[REDACTED]
[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine the amount and type of financial assistance you were eligible for?

Procedural History

You are listed on two separate Marketplace accounts.

[REDACTED]

On January 12, 2015, you created a new account with the Marketplace where you were the primary account holder. The account listed you and your husband as household members.

On January 20, 2015, multiple modifications to your application were submitted under that account.

On January 21, 2015, the Marketplace issued an eligibility determination, stating that you were eligible to purchase a qualified health plan at full cost. You were not eligible for Medicaid or to receive any advance premium tax credit (APTC) because you were qualified for coverage on another Marketplace account.

On February 26, 2015, the Marketplace issued another eligibility determination, again stating that you were eligible to purchase a qualified health plan at full cost. You were not eligible for Medicaid or to receive any APTC because you were qualified for coverage on another Marketplace account.

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██████████

On January 13, 2015, an account where your husband is the primary account holder was modified. You and your husband were listed as household members on this account.

On January 20, 2015, multiple modifications to you application were submitted under this account.

On January 21, 2015, an eligibility determination notice was issued that stated you were newly eligible to receive up to \$188.00 in APTC per month and newly eligible to receive cost sharing reductions if you enrolled in a silver level health plan. You were not eligible for Medicaid because your household income was over the allowable limit for that program. Your husband also was no longer eligible for Medicaid; however, his coverage under Medicaid continued because certain individuals who have been determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were last determined to be eligible.

On February 9, 2015, you spoke with the Marketplace's Account Review unit and requested an appeal be filed.

On March 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 for you to submit evidence of your monthly income as directed by the Hearing Officer. No documentation was received within the 15 day time frame. The record is now closed.

Findings of Fact

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

- 1) You testified that you plan on filing your 2015 tax return as married filing jointly. You will claim no dependents on that tax return.
- 2) The January 20, 2015 modifications to your application in account ██████████ listed expected annual household incomes of, in chronological order, \$33,896.00, \$23,580.00, \$21,680.00, and \$21,580.00. The last income you submitted on January 20, 2015 was \$21,580.00. This amount consisted of \$2,500.00 in income that you expect to receive from your job, and \$19,080.00 that your husband expects to receive in Social Security benefits.

- 3) The January 20, 2015 modifications to your application in account [REDACTED] each listed an expected annual household income of \$32,220.00. This amount consisted of \$10,816.00 in income that you expected to receive from your job, \$2,000.00 in income you expect to receive in ordinary dividends, and \$19,404.00 that your husband expects to receive in Social Security benefits.
- 4) You testified that in 2015 you anticipate making \$12,500.00 in income from your job, and \$2,000.00 in additional income from dividends.
- 5) You testified that your income from your job varies by the amount of hours you work in a month. In the month of February, you worked fewer days than usual because of snow.
- 6) You were directed by the Hearing Officer to submit as evidence your paystubs for the month of February. No evidence was received.
- 7) You testified that you receive income from your dividends every three months. You did not receive income from your dividends in February.
- 8) You testified that in 2015 your husband anticipates receiving \$19,404.00 in social security benefits.
- 9) You testified that your husband receives \$1,617.00 every month in social security benefits.
- 10) You testified that you have a lot of expenses including mortgage payments, and school taxes. You provided a bill from your electric company, a bill from your mortgage holder, a bill for your car payment, a bill for your school taxes, a bill from your fuel provider, and bills from your credit card companies.
- 11) You testified that you reside in Orange County, NY.
- 12) You testified that you were told by a Marketplace representative that you should be eligible for Medicaid but the system was saying that you had employer sponsored insurance coverage. You provided a letter from your employer that stated you were terminated from your employer sponsored health insurance effective January 15, 2015. This letter was submitted under [REDACTED].

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 (APTC)

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).

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), 45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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

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the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 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 \$15,930.00 for a two-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

Marketplace eligibility is determined using modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR 155.300(a)). Generally, MAGI is your adjusted gross income plus any non-taxable social security income, non-taxable interest income and non-taxable foreign income that you receive (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Living expenses, such as rent and utilities are not allowable deductions in computing adjusted gross income.

Legal Analysis

There is no indication in the record that the Marketplace ever made a determination that you were ineligible for financial assistance because of your enrollment in an employer sponsored insurance plan. The eligibility determination notice dated January 21, 2015 from [REDACTED] states that you were not

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eligible for Medicaid or to receive advance premium tax credits (APTC) because you were qualified for coverage on another Marketplace account.

The record supports that you are listed on another account and have eligibility determinations located in that account. Therefore, the January 21, 2015 eligibility determination notice from [REDACTED] is AFFIRMED.

[REDACTED]

On January 21, 2015, an eligibility determination notice was issued from [REDACTED] that stated you were newly eligible to receive up to \$188.00 in APTC per month and newly eligible to receive cost sharing reductions if you enroll in a silver level health plan. You were not eligible for Medicaid because your household income was over the allowable limit for that program.

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$188.00 per month.

In the application that was submitted on January 20, 2015 in [REDACTED] you attested to an expected yearly household income of \$32,220.00, and the eligibility determination relied upon that information.

According to the record, you are in a two-person household, and you plan on filing your taxes as married filing jointly and will claim no dependents on that return.

You reside in Orange County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$362.46 per month.

An annual income of \$32,220.00 is 204.83% of the 2014 federal poverty level (FPL) for a two-person household. At 204.83% of the FPL, the expected contribution to the cost of the health insurance premium is 6.51% of income, or \$174.79 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 (\$362.46 per month) minus your expected contribution (\$174.79 per month), which equals \$187.67 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$188.00 per month.

The second issue is whether the Marketplace properly determined that you were eligible for cost sharing reductions.

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 \$32,220.00 is

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204.83% of the 2014 FPL for a two-person household, the Marketplace correctly found you to be eligible for cost sharing reductions.

The third issue is whether the Marketplace properly determined that you were not eligible for Medicaid on an annual income basis.

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 \$15,930.00 for a two-person household. Since \$32,220.00 is 202.26% of the 2015 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the January 21, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$188.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

You testified that you were told you were eligible for Medicaid. Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the 2015 FPL, which is \$1,832.00 per month for a two person household.

You testified that your income varies monthly. For the month of February, you did not receive any income from your dividends and your monthly income from your job went down because you did not work as many hours with your job as usual. However, you did not provide evidence as directed by the Hearing Officer of the actual amount of income you received from your job.

You did provide a definite amount of income that your husband receives per month. You testified that your husband receives \$1,617.00 per month in social security benefits. You testified that you anticipate receiving \$12,500.00 in income from your job in 2015. We can then assume that on average you make \$1,041.67 per month. This results in a monthly income of about \$2,658.67 (\$1,617.00 + \$1,041.67) per month. Therefore, you would not qualify for Medicaid on a monthly basis because your monthly household income of \$2,658.67 exceeds the \$1,832.00 per month Medicaid limit for a two person household.

Additionally, you testified, and provided evidence, that you have a lot of expenses including mortgage payments, credit card debt, and school taxes. Since the Internal Revenue Service rules do not allow expenses such as

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mortgage payments, utilities, credit card debt, and school taxes to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the Marketplace computes your modified adjusted gross income for APTC and Medicaid purposes.

Decision

The January 21, 2015 eligibility determination notice from [REDACTED] is AFFIRMED.

The January 21, 2015 eligibility determination notice from [REDACTED] is AFFIRMED.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$188.00 per month in advance premium tax credit.

You remain eligible for cost-sharing reductions if you enroll in a silver level health plan.

You are not eligible for 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

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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 January 21, 2015 eligibility determination notice from [REDACTED] is AFFIRMED.

The January 21, 2015 eligibility determination notice from [REDACTED] is AFFIRMED.

You remain eligible for up to \$188.00 per month in advance premium tax credit.

You remain eligible for cost-sharing reductions if you enroll in a silver level health plan.

You are not eligible for 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]