



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

Notice of Decision

Decision Date: June 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001734

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On April 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 11, 2015 eligibility redetermination.

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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Issue

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

Did the Marketplace properly determine that, effective March 1, 2015, you are eligible to receive up to \$206.00 monthly of advance premium tax credits and, if you select a silver-level qualified health plan, for cost-sharing reductions as of February 11, 2015?

Procedural History

The Marketplace received your initial application for financial assistance and health insurance on December 8, 2014.

That same day, the Marketplace prepared a preliminary eligibility redetermination that, based on an expected annual income of \$23,920.00, you are eligible for up to \$202.00 monthly of advance premium tax credits (APTC) and, if you select a silver-level qualified health plan (QHP), for cost-sharing reductions (CSR) effective January 1, 2015.

On December 9, 2014, the Marketplace issued a notice of eligibility redetermination that was consistent with the December 8, 2014 preliminary redetermination.

On February 10, 2015, your Marketplace application was modified to change your annual income to \$23,500.00.

That same day, the Marketplace prepared a preliminary eligibility redetermination that you are eligible for up to \$206.00 monthly of APTC and, if you select a silver-level QHP, for CSR effective March 1, 2015.

Also that same day, you appealed the preliminary eligibility redetermination insofar as you wanted your level of APTC reconsidered for a greater amount.

On February 11, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the February 10, 2015 preliminary redetermination. That notice also said that you are not eligible for Medicaid because the income you reported of \$23,500.00 is over the allowable income limit of \$16,105.00.

After being granted two adjournments, on April 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was 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 expect to file your 2015 tax return as Single and you do not expect to claim anyone as a dependent for the 2015 tax year.
- 2) According to your Marketplace application, your expected 2015 annual income is \$23,500.00.
- 3) You currently reside in Schenectady County, New York.
- 4) You testified that you went out of work in April 2015 on a medical leave and will not be returning to work until you are cleared by your surgeon.
- 5) You testified that your surgeon said you will not be cleared to return to work for two to three weeks after your next follow-up appointment, which is in one week.
- 6) You testified that your employer agreed to fax to the Marketplace a letter on business letterhead stating your last day of work was April 10, 2015.
- 7) You testified that you do not have short-term disability coverage and will not be paid while you are out of work.

- 8) You testified that you received two paychecks in April 2015. The first paycheck was received on April 3, 2015 for \$454.25 in gross earnings and the second check was received on April 10, 2015 for \$460.00.
- 9) You testified that on April 17, 2015, you provided copies of the corresponding pay stubs for these pay dates to a Navigator, who is assisting you, and she was going to upload them to your Marketplace account.
- 10) You further testified that it is a hardship for you to pay monthly health insurance premiums, but you need to maintain health coverage.
- 11) On April 17, 2015, with the help of a Navigator, you updated your income amount to show year-to-date earnings of \$5,791.07 from January 1, 2015 to April 10, 2015. The Marketplace prepared a preliminary eligibility redetermination and informed you that you needed to provide additional proof of income and proof of being out of work in order for your eligibility to be confirmed.

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

- 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 2.01% 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), 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 (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 200% but less than 250% of the 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).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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)).

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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, 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).

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 \$206.00 per month.

In the updated application that was submitted on February 10, 2015, you attested to an expected yearly income of \$23,500.00, and the eligibility redetermination relied upon that information.

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

You reside in Schenectady County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$331.49 per month.

An annual income of \$23,500.00 is 201.37% of the 2014 federal poverty level (FPL) for a one-person household. At 201.37% of the FPL, the expected contribution to the cost of the health insurance premium is 6.39% of income, or \$125.09 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 (\$331.49 per month) minus your expected contribution (\$125.10 per month), which equals \$206.39 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$206.00 per month.

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

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$23,500.55 is 201.37% of the 2014 FPL, the Marketplace correctly found you to be eligible for CSR.

The third issue is whether the Marketplace properly determined that you were ineligible 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 modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable

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family size. On the date of your updated application, the relevant FPL was \$11,770.00 for a one-person household. Since \$23,500.00 is 199.66% 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.

Since the February 11, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$206.00 per month, eligible for cost-sharing reductions, 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 credibly testified that you went out of work on a medical leave and your last day of work was April 10, 2015. You also credibly testified that you will not be returning to work in April 2015, and your only source of income for that month was two pay checks totaling \$914.25 (\$460.00 and \$454.25). You had not provided proof of income or a separation letter from your employer such that this decision does not address your eligibility for Medicaid in that month. However, you have subsequently provided proof of income and an employer's letter and the Marketplace redetermined your eligibility for Medicaid effective May 1, 2015.

Decision

The February 11, 2015 eligibility redetermination, as made on February 10, 2015, is **AFFIRMED**.

Effective Date of this Decision: June 18, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$206.00 monthly of advance premium tax credit and eligible for cost-sharing reductions as of February 11, 2015.

This decision has no effect on any determinations issued after February 11, 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.

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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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 11, 2015 eligibility redetermination, as made on February 10, 2015, is **AFFIRMED**.

You remain eligible for up to \$206.00 monthly of advance premium tax credit and eligible for cost-sharing reductions as of February 11, 2015.

This decision has no effect on any determinations issued after February 11, 2015.

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Legal Authority

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Copy of this Decision Has Been Provided To:

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