



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

Notice of Decision

Decision Date: June 23, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001774

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 31, 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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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001774

[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, effective March 1, 2015, you are eligible to receive an advance premium tax credit of up to \$278.00 per month and, if you select a silver-level qualified health plan, eligible for cost-sharing reductions as of January 30, 2015?

Procedural History

On January 7, 2015, the Marketplace issued a notice that it was time to renew your health insurance through New York State of Health because your coverage through a Medicaid Managed Care plan was due to end on February 28, 2015. That notice also notified that you needed to update your information on your Marketplace account because it did not have enough information from federal and state sources to determine if you can get help paying for your insurance or what coverage you can have for the next year.

On January 30, 2015, your Marketplace account was updated and the Marketplace prepared a preliminary eligibility redetermination that you were eligible for advance premium tax credits (APTC) of up to \$278.00 per month and, if you select a silver-level qualified health plan (QHP) for cost-sharing reductions (CSR), effective March 1, 2015.

On January 31, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the January 30, 2015 preliminary eligibility redetermination. It also stated you were not eligible for Medicaid because the household income you provided of \$16,980.00 is over the allowable income limit of \$16,105.00.

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On February 13, 2015, you spoke with the Marketplace's Account Review Unit and appealed the eligibility redetermination insofar as you wanted an explanation as to why you do not qualify for Medicaid Managed Care when you did last year.

On March 12, 2015, you were contacted by a Hearing Officer to conduct the telephone hearing. The record was developed and held open for up to fifteen days to allow you the opportunity to submit proof of your 2015 Social Security Survivor's Benefits.

On March 12, 2015, you uploaded to your Marketplace account a letter from the Social Security Administration of that same date, which contained information of your current Social Security Benefits. The letter was made part of the record as "Appellant's Exhibit A."

Since the requested evidence was received, the record was closed that same day.

Findings of Fact

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

- 1) You testified that you are widowed, have no dependents, and plan to file your 2015 federal income tax return as single.
- 2) You testified that your [REDACTED] son lives with you but that you do not claim him as a dependent for tax purposes.
- 3) Your date of birth is [REDACTED], and you were [REDACTED] old at the time of your renewal application and as of the date of this decision.
- 4) According to your Marketplace account and the March 12, 2015 Social Security Administration letter, your monthly benefit before deductions for 2014 was \$1,392.00 and for 2015 is \$1,415.00, and you are entitled to these benefits as a dependent of the wage earner (Title II Widow Benefits) (Appellant's Exhibit A). You testified that these benefits are the only source of income you will have in 2015.
- 5) According to your Marketplace account, you selected a silver-level qualified health plan, Fidelis Care Silver ST INN Pediatric Dental Dep25 (Fidelis Care Silver), with a monthly premium responsibility of \$78.90, which could start as early as March 1, 2015 if you pay your first month's premium responsibility amount on time.

- 6) You testified that you had coverage through Medicaid starting in 2014 for one year until February 28, 2015, and want to be put back in that program because you cannot afford to pay any monthly premium for health insurance.

- 7) You reside in ██████ County, New York.

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)).

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), 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 133 % but less than 150% of the 2014 FPL, the expected contribution is between 3.02% and 4.02% 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 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 \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

Financial eligibility for Medicaid for applicants who *are* currently receiving Medicaid benefits financial eligibility may be based either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year (42 CFR § 435.603(h)(2), but see SPA 13-0055-MM3, as approved March 19, 2014).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace account.

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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 modified adjusted gross income (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

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 \$ 278.00 per month.

In the application that was submitted on January 30, 2015, you attested to an expected yearly income of \$16,980.00, and the eligibility determination 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 \$331.49 per month.

An annual income of \$16,980.00 is 145.50% of the 2014 federal poverty level (FPL) for a one-person household. At 145.50% of the FPL, the expected contribution to the cost of the health insurance premium is 3.76% of income, or \$53.13 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 (\$55.13 per month), which equals \$278.36 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$278.00 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 \$16,980.00 is 145.50% 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 family size. On the date of your renewal application, the relevant FPL was \$11,770.00

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for a one-person household. Since \$16,980.00 is 144.27 % 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 January 31, 2015 notice of eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$278.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

Decision

The Marketplace's January 31, 2015 notice of eligibility redetermination is AFFIRMED.

Effective Date of this Decision: [REDACTED], 2015

How this Decision Affects Your Eligibility

You remain eligible to receive an advance premium tax credit of up to \$278.00 monthly and eligible for cost-sharing reductions.

You remain ineligible for Medicaid through the New York State of Health Marketplace.

You were allowed to keep your Medicaid coverage for the previous year based on the Marketplace's continuous coverage policy.

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:
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- By fax: 1-855-900-5557

Summary

The Marketplace's January 31, 2015 notice of eligibility redetermination is **AFFIRMED**.

You remain eligible to receive an advance premium tax credit of up to \$278.00 monthly and eligible for cost-sharing reductions.

You remain ineligible for Medicaid through the New York State of Health Marketplace.

You were allowed to keep your Medicaid coverage for the previous year's coverage based on the Marketplace's continuous coverage policy.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]