



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: AP000000001775

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 11, 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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[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 as of February 11, 2015, you were eligible for up to \$160.00 per month of advance premium tax credits and, if you select a silver-level qualified health plan, eligible for cost-sharing reductions?

Procedural History

The Marketplace received your updated application for health insurance in 2015 on February 10, 2015.

On February 11, 2015, the Marketplace issued an eligibility determination notice. That notice stated that you were eligible to receive advance premium tax credits (APTC) of up to \$160.00 per month and, if you select a silver-level qualified health plan, for cost-sharing reductions (CSR). The notice further stated that you do not qualify for Medicaid because your reported household income of \$37,440.00 is over the allowable income limit for this program.

On February 13, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed that determination as it pertains to your ineligibility for Medicaid.

On March 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 closed at the end of the hearing.

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Findings of Fact

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

- 1) You testified that you are single and live with your domestic partner, who is pregnant, and your three children.
- 2) You testified that you plan on filing your 2015 tax return as Head of Household and will be claiming your three children and your newborn child as dependents.
- 3) You testified that your domestic partner has filed in the past and plans on filing her 2015 tax return as Single.
- 4) You testified that your expected 2015 income is \$37,440.00, as is reported on your Marketplace application.
- 5) You testified that you only want your eligibility for health insurance through the Marketplace reviewed.
- 6) You testified that you assumed that you had a household of six people and you should be determined eligible for Medicaid.
- 7) You and your family reside in █████ County, NY.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

Household Size

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Household size means the number of persons counted as a member of an individual's household. In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)). In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

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 2013 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 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 \$23,850.00 for a four-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% 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)).

For purposes of Medicaid eligibility, the family size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the FPL (42 CFR § 435.116 (c)(2); NY Department of Social Services Admin Directive 13ADM-03).

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 \$24,250.00 for a four-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 \$160.00 per month.

In the updated application that was submitted on February 10, 2015, you attested to an expected yearly income of \$37,440.00, and the eligibility determination relied upon that information.

According to the record, your household consists of you, your pregnant domestic partner, and your three children. You testified that you will be claiming the three minor children on your 2015 tax return and your newborn, who will be born this year. You

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testified that your domestic partner plans on filing her 2015 tax return as Single as she has in the past, so she does not count in your tax household and you cannot benefit from the law that allows for married couples to be included in each other's household. Similarly, you cannot claim your unborn child because he or she is counted in your domestic partner's household. Therefore, for purposes of this analysis you have a four-person tax household, which includes you and your three minor children.

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 \$37,440.00 is 156.98% of the 2014 federal poverty level (FPL) for a four-person household. At 156.98% of the FPL, the expected contribution to the cost of the health insurance premium is 4.34% of income, or \$135.41 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 (\$135.41 per month), which equals \$159.62 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$160.00 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 \$37,440.00 is 156.98% 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 application, the relevant FPL was \$24,250.00 for a four-person household. Since \$37,440.00 is 154.39% 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.

Further, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. You testified that your annual income is \$37,440.00, it is reasonable to infer that your monthly income of \$3,120.00 per month.

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 \$33,465.00 annually, or \$2,789.00 per month for a four-person household. Since your income is \$3,120.00 per

month, you did not qualify for Medicaid on the basis of monthly income when you submitted your application.

Since the February 11, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$160.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is **AFFIRMED**.

However, once your fourth child is born, he or she will change the size of your tax household if you still expect to claim the infant child on your 2015 tax return as a dependent. If so, you can update your Marketplace application to reflect that you have a new dependent and the Marketplace will redetermine your eligibility based on your new household size.

Decision

The February 11, 2015 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: June 23, 2015

How this Decision Affects Your Eligibility

As of February 11, 2015, you were eligible for an advance premium tax credit of up to \$160.00 per month and, if you selected a silver-level qualified health plan, eligible for cost-sharing reductions.

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

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

Summary

The February 11, 2015 eligibility determination is AFFIRMED.

As of February 11, 2015, you were eligible for an advance premium tax credit of up to \$160.00 per month and, if you selected a silver-level qualified health plan, eligible for cost-sharing reductions.

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]