



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: AP000000001783

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 16, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 14, 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).

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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 your eligibility for financial assistance to help pay for the cost of health insurance, effective March 1, 2015?

Procedural History

On February 13, 2015, the Marketplace received your modified application for health insurance. That day, a preliminary eligibility determination was prepared that stated that you were eligible for an advance premium tax credit amount of \$47.00 per month.

Also on February 13, 2015, you spoke with the Marketplace's Account Review unit and appealed that eligibility determination as it related to the amount of financial assistance you were eligible for.

On February 14, 2015, the Marketplace issued an eligibility determination notice. That notice stated that you were conditionally eligible to receive an advance premium tax credit amount of up to \$47.00 per month. That notice further stated that you were not eligible for cost-sharing reductions or Medicaid because your household income was over the allowable limits for those programs. This eligibility was effective March 1, 2015.

On March 16, 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 annual income as

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directed by the Hearing Officer. On March 23, 2015, the Appeals Unit received a fax containing the requested documentation. The record is now closed.

Findings of Fact

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

- 1) You are the only member of your household seeking insurance through the Marketplace at this time.
- 2) You testified that you plan on filing your 2015 tax return as married filing jointly. You will claim one dependent on that tax return.
- 3) At the time of the January 24, 2015 eligibility determination, your application listed an annual household income of \$44,330.40, which consisted of income solely from your husband's job.
- 4) In your February 13, 2015 application, you listed only your spouse and yourself as members of your household; you did not list your son.
- 5) You testified that you individually expect to receive \$0.00 in income for 2015.
- 6) You testified that your husband's income for 2015 will be similar to what your tax return lists as his gross income.
- 7) You provided a copy of your 2013 income tax return. Your tax return lists the following:
 - a. Line 12 lists a business income or loss of \$23,902.00
 - b. Line 37 lists an adjusted gross income of \$23,228.00.
- 8) You testified that you do not really understand how the taxes work but you know your husband will make the same as he did this year as he did last year because he is self-employed and has worked steadily last year and this year.
- 9) You testified that your husband will not put any of his income towards paying for your health insurance.
- 10) You provided a letter from you husband that stated he refuses to put his salary towards your medical expenses.
- 11) You testified that you live in Suffolk County, NY.

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

Applicable Law and Regulations

Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

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 \$19,790.00 for a three-person household and \$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 for the 2015 tax year is between 6.34% and 8.10% of the household income. For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution for the 2015 tax year is between 8.1% and 9.56% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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)).

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 \$20,090.00 for a three-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

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)

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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)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

Legal Analysis

The issue under review is whether the Marketplace properly determined the amount of financial assistance you were eligible for.

In the application that was submitted on February 13, 2015, you attested to an expected yearly income of \$44,330.40, which consisted entirely of income from your husband’s job, and you identified only two people in your household. The eligibility determination relied upon that information. You testified, and provided evidence, that your husband refuses to put any of his income towards paying for your medical expenses. However, because he is part of your household his income is included in calculating your eligibility for financial assistance.

Therefore, the amount of income that was listed in your application of \$44,330.40 was used to calculate your eligibility as stated in the February 14, 2015 eligibility determination notice, as was a household size of two persons.

Your application indicated that you planned on filing your 2015 tax return as married filing jointly, with no dependents.

You reside in Suffolk County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$379.93 per month.

An annual income of \$44,330.40 is 281.82% of the 2014 federal poverty level (FPL) for a two-person household. At 281.82% of the FPL, the expected contribution to the cost of the health insurance premium is 9.03% of income, or \$333.59 per month.

The maximum amount of advance premium tax credit (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 (\$379.93 per month) minus your expected contribution (\$333.59 per month), which equals \$46.34 per month. Therefore, rounding up to the nearest dollar, the Marketplace properly found you eligible you should have been eligible for up to \$47.00 per month in APTC.

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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 \$44,330.40 is 281.82% of the 2014 FPL, the Marketplace properly found that you were not eligible for Cost-sharing reductions.

Therefore, the February 14, 2015 eligibility determination was correct and is **AFFIRMED**.

However, at the hearing you testified that the income amount that was listed on your application was not correct. You testified that your husband is self-employed and that his adjusted gross income will be similar to what is stated on your 2013 tax return. You provided a copy of your 2013 tax return that lists an annual gross income of \$23,228.00.

Additionally, your February 3, 2015 application did not include your son as a member of your household.

Therefore, your case is being **RETURNED** to the Marketplace for a verification of your annual household income of \$23,228.00. Once it is verified, your eligibility for financial assistance will be redetermined based on that household income, a household of three people, and a county of residence of Suffolk County.

Decision

The February 14, 2015 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace for a verification of your annual household income of \$23,228.00. Once it is verified, your eligibility for financial assistance will be redetermined based on that household income, a household of three people, and a county of residence of Suffolk County.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

This is not a final decision on your eligibility for health insurance.

Your case is being returned to the Marketplace for verification of your income and a redetermination of your eligibility.

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 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
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- By fax: 1-855-900-5557

Summary

The February 14, 2015 eligibility determination is AFFIRMED.

This is not a final decision on your eligibility for health insurance.

Your case is being returned to the Marketplace for verification of your income and a redetermination of your eligibility.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]