



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: AP000000001882

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 27, 2015 eligibility determination.

The attached 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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Appeal Identification Number: AP000000001882

[REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you were eligible to enroll in a full-pay qualified health plan without financial assistance effective April 1, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid?

Procedural History

On February 27, 2015, the Marketplace issued a notice of eligibility determination which stated that you are eligible to purchase a qualified health plan at full cost through the Marketplace. It further stated that you were not eligible to receive an advance premium tax credit (APTC) because you had employee duplicate coverage, you were not eligible for cost-sharing reductions (CSR) because you were ineligible to receive an APTC, and you were not eligible for Medicaid because your household income of \$44,200.00 was over the allowable income limit of \$16,105.00. You appealed this determination insofar as you were found not eligible for Medicaid.

On March 26, 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.

Findings of Fact

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

- 1) You testified that you are unmarried and live alone.
- 2) You testified that you have been divorced for approximately 7 to 8 years.
- 3) You testified that you have 2 children, but they are now grown and living on their own.
- 4) You testified that you are seeking health insurance coverage only for yourself under your individual Marketplace account.
- 5) You testified, and your application indicates, that you expect to file your 2015 taxes as “single” and claim no dependents.
- 6) You live in Richmond County, New York.
- 7) In your February 26, 2015 application, you attested that you are employed by [REDACTED] and are compensated at a rate of \$850.00 every week. You testified during the hearing that this remained an accurate representation of your income for 2015.
- 8) You testified that you are paid weekly by your employer, and that your income does not fluctuate. You further testified that during the month of February 2015, you received four separate payments from [REDACTED] of \$850.00 each.
- 9) You testified that prior to enrolling in coverage through the individual Marketplace, you were receiving Medicaid coverage.
- 10) You testified that you have been enrolled in a Health Republic Bronze plan since March 2014 that is being sponsored by your employer through the Small Business Marketplace. You further testified that your employer provides up to \$300.00 per month for you to spend to enroll in plans offered through the Marketplace, and that you do not provide any amount toward the cost of that plan.
- 11) You testified that this bronze-level plan is not beneficial to you since you are typically subject to a 50% co-pay for any medical expenses incurred. You further testified that you would prefer to be enrolled in a Medicaid plan through the individual Marketplace.

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)).

To be eligible to claim APTC, a taxpayer must meet the eligibility requirements to enroll in a qualified health plan and not be eligible for minimum essential coverage, except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR § 1.36B-2).

Minimum Essential Coverage

Generally, an individual who may enroll in an eligible employer-sponsored plan and an individual who may enroll in the plan because of a relationship to the employee are eligible for what is considered minimum essential coverage under the plan only if the plan is affordable and provides minimum value (see 26 CFR § 1.36B-2(c)(3)(i)).

“Minimum essential coverage” is defined in section 5000A(f) of the Internal Revenue Code and the regulations issued under that section. As described in that section, eligible employer-sponsored plans are considered minimum essential coverage (26 CFR § 1.36B-2(c)(1)).

An eligible employer-sponsored plan is “affordable” if the portion of the annual premium that the employee pays for his or her own insurance does not exceed 9.56% of the employee’s household income (26 USC § 36B(b)(3)(A), 26 CFR 1.36B-2T(c)(3)(v)(C), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37). The plan provides “minimum value” if its “share of the total allowed costs of benefits provided to the employee under the plan ... is at least 60 percent” (26 CFR 1.36B-2(c)(3)(vi)).

Plans that are offered to employees through the Small Business Marketplace are also considered to be an eligible employer-sponsored plan for purposes of qualifying as minimum essential coverage. (26 CFR 5000A(f)(1)(B)).

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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 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 on appeal is whether the Marketplace properly determined that you were eligible to enroll in a full-pay qualified health plan without financial assistance effective April 1, 2015.

In order to be eligible for an advance premium tax credit (APTC), a person must not be eligible for an employer sponsored health plan that offers minimum essential coverage.

You testified during the hearing that you are employed by [REDACTED] and that you have been enrolled in a Health Republic Bronze plan since March of 2014 that is being sponsored by your employer through the Small Business Marketplace.

Plans that are offered to employees through the Small Business Marketplace are considered to be an eligible employer-sponsored plan for purposes of qualifying as minimum essential coverage.

You contend on appeal that your employer-sponsored health insurance is not affordable as you cannot contribute any amount above the \$300.00 per month your employer contributes for you to enroll in a better plan. Under Marketplace regulations, a plan is affordable if it costs no more than 9.56% of the household income to cover the employee alone. The record reflects that you are enrolled in the Health Republic bronze-level plan at no cost to you.

Since the available evidence indicates that you have employer-sponsored health insurance that provides minimum essential coverage, you are not eligible for an APTC.

Cost-sharing reductions (CSR) are available to a person who is eligible to receive an APTC and has an annual household income that does not exceed 250% of the federal poverty level (FPL). Since you are not eligible for APTC, you are also not eligible for CSR.

The final issue under appeal is whether the Marketplace properly determined that you are not eligible for Medicaid.

You are in a one person household. You expect to file your 2015 income taxes as single and will claim no dependents on that income tax return.

The application you submitted on February 26, 2015 listed an annual household income of \$44,200.00 and the eligibility determination relied upon that information.

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 \$11,770.00 for a one-person household. Since \$44,200.00 is 375.53% 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.

However, 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 FPL, which is \$1,353.55 per month. You testified that you are paid weekly by your employer, and that your income does not fluctuate. You further testified that during the month of February 2015, you received four separate payments from Specs of \$850.00 each. Since

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the record indicates that your income was approximately \$3,400.00 for the month of February 2015, you did not qualify for Medicaid on the basis of monthly income when you submitted your application.

Since the February 27, 2015 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible to enroll in a QHP at full-cost, but were ineligible for APTC, CSR or Medicaid, it is correct and is AFFIRMED.

Decision

The February 27, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

You continue to be eligible to enroll in a qualified health plan at full cost.

You are not eligible for an advance premium tax credit.

You are not 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 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 27, 2015 eligibility determination is **AFFIRMED**.

You continue to be eligible to enroll in a qualified health plan at full cost.

You are not eligible for an advance premium tax credit.

You are not 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]