



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

Notice of Decision

Decision Date: August 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001886

[REDACTED]

Dear [REDACTED],

On March 25, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 27, 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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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 for up to \$225.00 per month in advance premium tax credits, effective April 1, 2015?

Did the Marketplace properly determine that you were eligible for cost sharing reductions if you enrolled in a silver level health plan?

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

Did the Marketplace properly determine that your son is eligible to enroll in a health plan through Child Health Plus with a \$9.00 per month premium?

Procedural History

On February 26, 2015, the Marketplace received your initial application for health insurance. That day, the Marketplace made a preliminary eligibility determination, stating that you were eligible for up to \$225.00 per month in advance premium tax credits (APTC) and cost sharing reductions. Your son was eligible for Child Health Plus (CHP) with a \$9.00 per month premium.

Also on February 26, 2015, you spoke with the Marketplace's Account Review unit and appealed that preliminary eligibility determination as it related to the amount of financial assistance you were receiving, as well as your son's CHP premium amount.

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On February 27, 2015, the Marketplace issued an eligibility determination notice. That notice stated that you were eligible to receive up to \$225.00 per month in APTC and, if you enroll in a silver level health plan, cost-sharing reductions (CSR). You were not eligible for Medicaid because your income was above the allowable limit for that program. Your son was eligible to enroll in health plan through CHP with a \$9.00 premium per month.

On March 25, 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 monthly income as directed by the Hearing Officer. Documentation was received by the Marketplace on April 15, 2015; although it was received outside of the 15-day window, it was added to the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you plan on filing your 2015 tax return as single. You will claim one dependent on that tax return.
- 2) At the time of the February 27, 2015 eligibility determination, your application listed an annual household income of \$30,000.00. This income consisted solely of the income you receive from your job.
- 3) You testified that the amount of income listed on your application is correct. You anticipate making around \$30,000.00 in 2015.
- 4) You testified that your income varies monthly. For the month of February your monthly income went down because you did not work as many hours with your job.
- 5) You faxed to the Appeals Unit a paystub dated 1/28/2015 that was for a gross pay amount of \$1,435.50 and a paystub dated February 11, 2015 for the gross pay amount of \$1,369.50.
- 6) You faxed a letter to the Appeals Unit that stated you were only able to obtain one of your paystubs for the month of February to show the decrease in pay.
- 7) You testified that you plan on taking a \$1,300.00 student loan interest deduction on your 2015 income tax return.
- 8) You testified that you have a lot of living expenses including your vehicle, student loans, food, rent, and credit card debt that should be taken into

consideration when determining your household income. You faxed copies of your rent receipts, student loan bill, credit card bill, car insurance bill, and car loan bill.

9) You testified that you reside in Rockland County.

10) You testified that you would like your eligibility for financial assistance, specifically your eligibility for Medicaid, to be reconsidered as well as your child's premium amount for Child Health Plus.

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

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

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requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$15,730.00 for a two -person household (79 Fed. Reg. 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).

Cost-Sharing Reductions

Cost-sharing reductions 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 \$15,930.00 for a two-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).

Child Health Plus

A child may be eligible for coverage through Child Health Plus (CHP) provided (1) he or she lives in a household having a household income at or below 400% of the FPL and (2) is not eligible for medical assistance (Medicaid), except that a child who becomes eligible for Medicaid after becoming eligible for CHP, may be

eligible for a subsidy payment for a period of three months after becoming eligible for such medical assistance (NY Public Health Law § 2511(2)(b) and (3)).

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the FPL (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL (PHL § 2510(9)(d)(ii)).

Modified Adjusted Gross Income

Marketplace eligibility is determined using modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR 155.300(a)). Generally, MAGI is your adjusted gross income plus any non-taxable social security income, non-taxable interest income and non-taxable foreign income that you receive (see 26 USC § 36B(d)(2)(B), 26 CFR § 1-36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Living expenses, such as rent and utilities are not allowable deductions in computing adjusted gross income. Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; see also 26 USC § 62 (17)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for advance premium tax credits (APTC) of up to \$225.00 per month.

In the application that was submitted on February 26, 2015 you attested to an expected yearly income of \$30,000.00, and the eligibility determination relied upon that information.

According to the record you are in a two person household. You plan on filing your taxes as single and will claim one dependent on that tax return.

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You reside in Rockland County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$372.40 per month.

An annual income of \$30,000.00 is 190.72% of the 2014 Federal Poverty Line (FPL) for a two-person household. At 190.72% of the FPL, the expected contribution to the cost of the health insurance premium is 5.91% of income, or \$147.75 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 (\$372.40 per month) minus your expected contribution (\$147.75 per month), which equals \$224.65 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$225.00 per month.

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

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 \$30,000.00 is 190.72% of the 2014 FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

The third issue is whether the Marketplace properly determined that you were not eligible for Medicaid on an annual household income basis.

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 \$15,930.00 for a two-person household. Since \$30,000.00 is 188.32% of the 2015 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

A Child Health Plus (CHP) premium payment is required for an eligible child whose family household income is at least 160% of the FPL. The premium is \$9.00 for a family with a household income between 160% and 222% of the FPL. Since your income falls within that range, the Marketplace was correct when it determined that your son's CHP premium would be \$9.00 per month.

Since the February 27, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$225.00 per month, eligible for cost-sharing reductions, not eligible for Medicaid, and your son was eligible for a \$9.00 per month Child Health Plus premium, it is correct and is **AFFIRMED**.

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You testified that you would like your eligibility for Medicaid to be reconsidered. 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 income varies monthly. For the month of February your monthly income went down because you did not work as many hours with your job. You faxed in a paystub dated February 11, 2015 for the gross pay amount of \$1,369.50. You were unable to provide a second paystub for the month of February. You did provide a letter that stated the February paystub shows the decrease in pay you testified to. Even assuming that your other paystub from February would show a similar figure, your gross income for the month of February would be \$2,739.00 (\$1,369.50 x2).

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 \$1,832.00 per month for a two person household. Since your income of \$2,739.00 is greater than the allowable limit, you are not eligible for Medicaid on a current monthly income basis.

Additionally, you testified that you have a lot of expenses including your vehicle, student loans, food, rent, and credit card debt that should be taken into consideration when determining your household income. Since the Internal Revenue Service rules do not allow living expenses such as rent, utilities and credit card debt to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the Marketplace computes your MAGI for APTC purposes. However, you did testify that you will be taking student loan interest deduction in 2015 in the amount of \$1,300.00. The Internal Revenue Service does allow up to \$2,500.00 in interest paid on a qualified student loan to be deducted from adjusted gross income.

However, since this change in your income would lead to only a minimal change in your APTC monthly amount, this will be reconciled when you file your tax return for 2015.

Decision

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

Your case is being **RETURNED** to the Marketplace for a redetermination of your eligibility based on a household of two people, and an individual residing in Rockland County with an annual household income of \$28,700.00.

Effective Date of this Decision: August 18, 2015

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).

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace for a redetermination of your eligibility based on a household of two people, and an individual residing in Rockland County with an annual household income of \$28,700.00.

Your son remains eligible for Child Health Plus with a \$9.00 per month premium.

Be aware however, that the final tax credit you get will be based on your income as stated in your federal tax return. If you earn more during 2015 than you now expect – for example, because you get a raise or find a new job – the advance credit you get now will be based on your current income estimate, and may be higher than the final credit you will be entitled to claim on your tax return. If that happens, it could increase the amount of income taxes you have to pay or reduce your refund.

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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

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

Your case is being sent back to the Marketplace for a redetermination of your eligibility based on a household of two people, and an individual residing in Rockland County with an annual household income of \$28,700.00.

Your son remains eligible for Child Health Plus with a \$9.00 per month premium.

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:

