



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

Notice of Decision

Decision Date: July 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001893

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 28, 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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Issues

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

Did the Marketplace properly determine that you are eligible for an advance premium tax credit of up to \$146.00 per month?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

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

Procedural History

The Marketplace received your 2015 application for health insurance on January 16, 2015.

On February 27, 2015, the Marketplace received your modified application for health insurance and prepared a preliminary eligibility determination that stated you are eligible to receive an advance premium tax credit of up to \$146.00 per month. This preliminary eligibility determination was based on an annual household income of \$31,378.88.

Also on February 27, 2015, you spoke with the Marketplace's Account Review Unit and appealed that preliminary determination insofar as it did not approve an advance premium tax credit of more than \$146.00 per month.

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On February 28, 2015, the Marketplace issued an eligibility determination notice that reflected the February 27, 2015 preliminary eligibility determination. The notice stated that you are eligible to receive advance premium tax credit of up to \$146.00 per month. However, you were not eligible for cost-sharing reductions or for Medicaid because your income was over the allowable limits for those programs. This eligibility was effective April 1, 2015.

On March 23, 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 up to 15 days to provide you an opportunity to submit evidence supporting your position.

On March 23, 2015, the Marketplace's Appeals Unit received your supporting evidence via fax, which included a written statement from your employer, a copy of your February 2015 paystubs, and a copy of your short term disability benefit application. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record.

The record was closed on March 23, 2015.

Findings of Fact

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

- 1) You testified, and the record reflects, that you are the only person in your household.
- 2) You testified that you expect to file your 2015 federal income tax return as single and claim no dependents.
- 3) According to the February 27, 2015 application, you attested to an expected household income of \$31,378.88. You testified that this income is an accurate reflection of your expected income for the 2015 tax year.
- 4) You testified that you underwent surgery in February 2015 and were out of work for two weeks in February. You further testified, and provided evidence, that you only received two paychecks in February 2015. You provided evidence that you earned \$492.28 on February 4, 2015, and \$484.34 on February 11, 2015 before taxes are deducted (Appellant's Exhibit 1, March 23, 2015).
- 5) You provided evidence that you were out of work on disability from February 6, 2015 to March 9, 2015 (Appellant's Exhibit 1, March 23, 2015). You further testified that your short term disability benefit

payments were approved, but you do not receive these payments until March 2015.

- 6) You testified that you do not expect to claim any tax deductions for the 2015 tax year.
- 7) The record reflects that you reside in Kings County, NY.

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), 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

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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 250% but less than 300% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% 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 (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 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).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you are eligible for an advance premium tax credit (APTC) of up to \$146.00 per month.

According to the February 27, 2015 application, you expect to file your 2015 federal income tax as single and claim no dependents; therefore, you are a one-person tax household.

According to the same application, you attested to an expected household income of \$31,378.88. The eligibility determination relied upon that information.

You reside in Kings County, where the second lowest cost silver plan available in 2015 for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$31,378.88 is 268.88% of the 2014 federal poverty level (FPL) for a one-person household. At 268.88% of the FPL, the expected contribution to the cost of the health insurance premium is 8.65% of income, or \$244.48 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 (\$371.75 per month) minus your expected contribution (\$226.19 per month), which equals \$145.56 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$146.00 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 \$31,378.88 is 268.88% of the 2014 FPL, the Marketplace correctly found you to be not eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined that you were not eligible 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 \$11,770.00 for a one-person household. Since \$31,378.88 is 266.60% 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.

Since the February 28, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$146.00 per month, not eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, at the hearing, you testified and provided evidence that your 2015 expected annual household income does not reflect your current income situation.

At the hearing, you credibly testified, and provided evidence, that you underwent surgery in February and were out of work from February 6, 2015 to March 9, 2015. You further provided evidence that you received two paychecks during the month of February; you earned \$492.28 on February 4, 2015, and \$484.34 on February 11, 2015 before taxes are deducted. Therefore, you earned \$976.62 during February 2015.

You further testified that you were approved for short term disability benefit payments, but will not be receiving these payments until March 2015.

Financial eligibility for Medicaid for applicants who are currently receiving Medicaid benefits may be based on current monthly household income and family size. Since the record suggests that the Marketplace determined your Medicaid eligibility by expected annual income, but not by monthly income, your case should be returned to the Marketplace for an eligibility determination based on your February 2015 monthly income.

Therefore, your case is RETURNED to the Marketplace to determine your eligibility for financial assistance on the basis of monthly income using a one-person household in Kings County with a February 2015 income of \$976.62.

Decision

The February 28, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to determine your eligibility for financial assistance on the basis of monthly income using a one-person household in Kings County with a February 2015 income of \$976.62.

Effective Date of this Decision: July 15, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

It does return your case to the Marketplace to consider your eligibility for financial assistance on the basis of monthly income using a one-person household in Kings County with a February 2015 income of \$976.62.

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

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Summary

The February 28, 2015 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

It does return your case to the Marketplace to consider your eligibility for financial assistance on the basis of monthly income using a one-person household in Kings County with a February 2015 income of \$976.62.

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]