



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

Notice of Decision

Decision Date: July 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001938

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On April 1, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 5, 2015 eligibility redetermination.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: June 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001938

[REDACTED]
[REDACTED]
[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that, effective April 1, 2015, you are eligible to receive up to \$142.00 per month in advance premium tax credit and, if you select a silver-level qualified health plan, eligible for cost-sharing reductions as of March 4, 2015?

Procedural History

In 2014, you were enrolled in Medicaid through the Marketplace from March 1, 2014 to February 28, 2015.

On January 7, 2015, the Marketplace issued a renewal notice that stated, “[b]ased on the information from federal and state sources, we cannot make a decision about whether or not you qualify for financial help paying for your health coverage. Please update the information on your NY State of Health account by February 15, 2015 so we can make an appropriate decision. If you miss this deadline, the financial assistance you are getting now may end.”

On February 17, 2015, the Marketplace issued a notice that you are not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance and you cannot enroll in a qualified health plan at full cost through NY State of Health. The reason stated, “[y]ou did not respond to the renewal notice and did not complete your renewal within the required timeframe. As a

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result, you no longer qualify to receive financial assistance to help pay for your health coverage.”

On March 4, 2015, your Marketplace application was updated.

That same day, the Marketplace prepared a preliminary eligibility redetermination that you are eligible to receive up to \$142.00 of advance premium tax credits (APTC) and cost-sharing reductions (CSR).

Also that same day, you spoke with a representative in the Marketplace’s Account Review Unit and appealed the eligibility redetermination insofar as you wanted more APTC.

On March 5, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the March 4, 2015 preliminary redetermination. That notice also stated you were not eligible for Medicaid because your household income of \$31,200.00 was over the allowable income limit for this program.

On March 24, 2015, the Marketplace granted your request for aid to continue under Medicaid from March 1, 2015 through June 30, 2015 during the appeal process and pending the outcome of your appeal.

On April 1, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed and held open for up to fifteen days to allow you the opportunity to submit your 2014 federal income tax return (Form 1040). On April 6, 2015, the Marketplace’s Appeals Unit received a three page fax from you consisting of: (1) A cover page; and (2) your 2014 Form 1040 – U.S. Individual Income Tax Return. This three page fax was made part of the record as “Appellant’s Exhibit A.”

This being the only document you were directed to provide, the record was closed that same day.

Findings of Fact

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

- 1) You and your husband plan on filing your 2015 federal income tax return as Married Filing Jointly and you will not be claiming any dependents.
- 2) Your 2014 Form 1040 – U.S. Individual Income Tax Return shows your household adjusted gross income for that year was \$20,761.00.
- 3) According to your Marketplace application, your attested 2015 annual household income is \$31,200.00, or \$2,600.00 monthly.

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- 4) You testified at hearing that your household income is comprised of your husband's Social Security Title II monthly benefits of \$2,017.00 and additional monthly income of \$600.00, which is the taxable amount of a monthly IRA distribution that will end in June 2015 when your IRA is depleted.
- 5) Only you need health insurance through the Marketplace.
- 6) You testified that even with an advance premium tax credit (APTC), you cannot afford any of the health plans offered through the Marketplace.
- 7) You want to be considered for more financial assistance (APTC) so you can afford health insurance through the Marketplace.
- 8) You and your husband reside in Ontario County, New York.

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)).

"Adjusted gross income" means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as educator expenses, 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)).

An individual's income from Social Security benefits is included in their gross income only to the extent that the sum of the person's IRS-defined "modified adjusted gross income" and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

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 \$15,730.00 for a two-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).

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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 \$15,930.00 for a two-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).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

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If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, you can consult the Federal Marketplace website (www.healthcare.gov) for information and an application.

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 \$142.00 per month and eligible for cost-sharing reductions (CSR).

In the application that was updated on March 4, 2015, you attested to an expected yearly income of \$31,200.00, and the eligibility determination relied upon that information. Of that income, your application reflects that your husband receives \$2,000.00 gross monthly, or \$24,000.00 annually, in Title II benefits. The full amount of his Title II benefits is considered when calculating modified adjusted gross income (MAGI).

According to the record, there are two people in your tax household, you and your husband. Only you need health insurance through the Marketplace.

You reside in Ontario County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$305.04 per month.

An annual income of \$31,200.00 is 198.35% of the 2014 federal poverty level (FPL) for a two-person household. At 198.35% of the FPL, the expected contribution to the cost of the health insurance premium is 6.26% of income, or \$162.76 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 (\$305.04 per month) minus your expected contribution (\$162.76 per month), which equals \$142.28 per month. Therefore, computing to the nearest dollar, the Marketplace was correct when it determined your advance premium tax credit to be \$142.00 per month.

CSR is available to an individual who has a household income no greater than 250% of the FPL. Since a household income of \$31,200.00 is 198.35% of the 2014 FPL, the Marketplace correctly found you to be eligible for CSR.

However, you testified that your current annual household income is \$24,204.00 (Title II benefits of \$2,017.00 per month) plus \$3,600.00 (\$600.00 per month for six months), so your expected annual income might change. If an income change does occur, you can log onto your Marketplace account and report the change, which will trigger the Marketplace to redetermine your eligibility at that time.

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The other 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 MAGI that is at or below 138% of the FPL for the applicable family size. On the date of your updated application, the relevant FPL was \$15,930.00 for a two-person household. Since \$31,200.00 is 195.86% 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.

The same is true using current monthly income of \$2,600.00 because 138% of the 2015 FPL on a monthly basis is \$1,832.00. Since your current monthly income of \$2,600.00 is over the allowable monthly income limit of \$1,832.00, the marketplace was correct in finding you ineligible for Medicaid on an expected monthly income basis.

Since the March 5, 2015 notice of eligibility redetermination properly stated that, based on the information you provided, you were eligible for APTC of up to \$142.00 per month, eligible for CSR, and ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

The March 5, 2015 notice of eligibility redetermination is AFFIRMED.

Effective Date of this Decision: July 3, 2015

How this Decision Affects Your Eligibility

You are no longer eligible for “aid to continue” Medicaid because the March 5, 2015 notice of eligibility redetermination has been affirmed. Your Medicaid coverage will end June 30, 2015.

The March 5, 2015 eligibility redetermination will become effective as of July 1, 2015.

You are eligible for up to \$142.00 per month in advance premium tax credit as well as eligible for cost sharing reductions if you enroll in a silver level health plan.

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 March 5, 2015 notice of eligibility redetermination is AFFIRMED.

You are no longer eligible for “aid to continue” Medicaid because the March 5, 2015 notice of eligibility redetermination has been affirmed. Your Medicaid coverage will end June 30, 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).

The March 5, 2015 eligibility redetermination will become effective as of July 1, 2015.

You are eligible for up to \$142.00 per month in advance premium tax credit as well as eligible for cost sharing reductions if you enroll in a silver level health plan.

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website (www.healthcare.gov).

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]