



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

Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002205

[REDACTED]

Dear [REDACTED],

On April 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 24, 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 letter.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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NY State of Health Number: [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 that you are not eligible for financial assistance through the Marketplace effective April 1, 2015 as stated in the March 24, 2015 notice of eligibility determination?

Procedural History

The Marketplace received your initial application for health insurance on April 9, 2014, wherein you reported a household income of \$11,412.00.

On April 30, 2014, the Marketplace issued an eligibility determination that you were eligible for Medicaid effective April 1, 2014. The notice also informed you that your enrollment in with Amerigroup New York, LLC, a Medicaid Managed Care (MMC) plan, will begin May 1, 2014.

On February 11, 2015, the Marketplace issued a renewal notice regarding your health coverage through NY State of Health for 2015. It said that based on the information from federal and state sources, the Marketplace cannot make a decision about whether or not you qualify for financial help paying for your health coverage. It requested that you update the information on your NY State of Health account by March 15, 2015 so they can make an appropriate decision. It further stated that if you miss this deadline, the financial assistance you are getting now may end, but you may be able to buy a health plan at NY State of Health at full cost.

On March 17, 2015, the Marketplace issued a notice of eligibility redetermination that you no longer qualify for Medicaid Child Health Plus, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance and cannot enroll in a qualified health plan at full cost. The basis for this redetermination is that you did not respond to the renewal notice and did not provide your updated information within the required timeframe. It also stated that your eligibility will end effective March 31, 2015.

On March 18, 2015, the Marketplace issued a disenrollment notice that your coverage with HealthPlus, an Amerigroup Company, will end effective March 31, 2015.

On March 24, 2015, the Marketplace issued an eligibility redetermination that you are newly eligible to purchase a qualified health plan at full cost through NY State of Health effective May 1, 2015. The notice also stated in relevant part that you are not eligible for Medicaid because the household income you provided of \$30,360.00 is over the allowable income limit of \$21,984.00. The notice further stated that you are not eligible to receive advance premium tax credits (APTC) to help pay for the cost of your insurance because your application states that the primary tax filers in your house are married but not filing taxes jointly and to be eligible for the advance premium tax credit, married couples must file taxes jointly. It also stated that you are not eligible for cost-sharing reductions (CSR) because you are ineligible to receive APTC.

On March 26, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the March 24, 2015 eligibility redetermination insofar as you were not eligible for financial assistance through the Marketplace.

On April 28, 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 currently married but have moved out of the marital residence as of April 20, 2015 and do not plan on moving back during 2015.
- 2) At the hearing, you provided your new residence address of 3909 Dyre Avenue, Apt 2, Bronx, NY 10466.
- 3) You testified that you filed your 2014 federal income tax return as single and plan on doing the same in 2015 because your wife doesn't want to file jointly.
- 4) You testified that you do not have any dependents and, therefore, will not be claiming any dependents on your 2015 tax return.

- 5) You testified you have not acquired a decree of divorce or of separate maintenance and do not want to get divorced.
- 6) You testified that you expect to receive Social Security Retirement benefits of \$11,626.00 in 2015.
- 7) You testified that your wife expects to earn \$18,696.00 in 2015.
- 8) You do not want your wife's income counted toward your eligibility because she does not live with you nor share her income with you.
- 9) You testified that you cannot afford to pay for health insurance through the Marketplace.
- 10) According to your Marketplace account, your birthdate is January 4, 1951 and you were 64 years old at the time of your application and as of the date of the hearing.

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)).

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)).

Household Size

Household size means the number of persons counted as a member of an individual's household. In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)). In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

Advance Premium Tax Credit

A tax filer is eligible for an advance premium tax credit (APTC) if: (1) the tax filer is expected to have a household income of at least 100% percent but not more than 400% of the Federal Poverty Level (FPL), and (2) the tax filer expects to claim a personal exemption deduction on his or her tax return for an applicant who meets the eligibility requirements to enroll in a qualified health plan and is not eligible for minimum essential coverage except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR 1.36B-2).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, a tax filer will be treated as "not married" at the close of the taxable year if the tax filer:

- (1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- (2) Meets all of the following criteria:
 - a. taxpayer files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child; and
 - b. taxpayer pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. taxpayer's spouse is not a member of the household during the last 6 months of the taxable year

(26 USC § 7703(a); 26 USC § 7703(b)).

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).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you are not eligible for financial assistance through NY State of Health. Financial assistance can be provided through Medicaid Fee for Services, MMC programs, and APTC and CSR.

According to the record, you expect to file as single on your 2015 federal income tax return and claim no dependents on that return. However, your Marketplace account and your testimony reflect that you are married, you are not divorced or legally separated from your spouse and do not plan to be in 2015, and you testified that you do not plan to file a joint tax return with your spouse for the 2015 tax year. Further, you do not have any dependents so you do not do not maintain your household as the primary home for a qualifying child to be considered as “not married” for purposes of qualifying for APTC.

Therefore, the record does not support a finding that you qualify to be treated as “not married” and you are regarded as married not filing jointly for purposes of this decision. Generally, married taxpayers, who are not legally separated or divorced and do not expect to be in a given tax year, are required to file a joint tax return in order to qualify

for premium tax credits. People who use the “married filing separately” or “single” status are not eligible to receive premium tax credits. You clearly testified that you filed as Single in 2014 and plan on filing as Single on your 2015 tax return and will not be legally separated or divorced in 2015. As such, you are not eligible for an advance premium tax credit at this time.

To be eligible for CSR, you must first be eligible to receive APTC. Since you do not meet the joint filing status requirement for married couples to receive APTC and you do not otherwise qualify as “not married” to be eligible for APTC, you are also not eligible for CSR

As for your Medicaid eligibility, at the time that your eligibility was determined you and your spouse lived together. Therefore, you each counted in one another’s household and for purpose of the Medicaid analysis, you had a two-person household. In addition, both of your incomes counted (\$11,664.00 plus \$18,694.00), which totaled \$30,360.00.

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, you met the non-financial criteria. Also on the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$30,360.00 is 190.58% 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.

Since the March 24, 2015 notice of eligibility determination properly stated that, based on the information you provided, you were ineligible for APTC due to your tax filing status and, therefore ineligible for CSR, and also not eligible for Medicaid, it is correct and is AFFIRMED.

Decision

The March 24, 2015 notice of eligibility determination and is AFFIRMED.

Effective Date of this Decision: September 3, 2015

How this Decision Affects Your Eligibility

This decision does not affect your ineligibility for financial assistance.

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 24, 2015 notice of eligibility determination and is AFFIRMED.

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

