



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

Notice of Decision

Decision Date: July 24, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002248

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On May 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 25, 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 conditionally eligible to receive up to \$118.00 per month of advance premium tax credits and, if you select a silver-level qualified health plan, for cost-sharing reductions?

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

Procedural History

On March 24, 2015, the Marketplace received your initial application for health insurance.

On March 25, 2015, the Marketplace issued a notice of eligibility determination that, in relevant part, stated you are conditionally eligible to receive up to \$118.00 per month in advance premium tax credits (APTC) and, if you select a silver-level qualified health plan, for cost-sharing reductions (CSR). This eligibility was effective May 1, 2015. The notice also stated that you are not eligible for Medicaid because your household income is over the maximum allowable income limit for that program. The notice informed you that your eligibility was conditional because additional information was needed regarding your citizenship status. You were given until June 22, 2015 to provide this additional information to the Marketplace so your eligibility could be confirmed.

That same day, the Marketplace issued a letter confirming that you had selected a qualified health plan and had a monthly premium responsibility of \$280.82 after your APTC of \$118.00 was applied. The letter also stated that your health insurance

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coverage could start as early as May 1, 2015, provided you paid your first month's premium on time.

On March 31, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the eligibility determination insofar as you do not want your husband's income considered in determining your eligibility for financial assistance.

On May 8, 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) According to your Marketplace account and your testimony at the hearing, you are married, live with your spouse, and have no dependents.
- 2) You testified that you expect to file your 2015 federal income tax return as Married Filing Jointly and will not be claiming any dependents on that tax return.
- 3) In the application that was submitted on March 24, 2015 you attested to a household income of \$38,476.36. According to your Marketplace account, you reported that you earn \$309.00 per week and your husband earns \$430.93 per week.
- 4) You are appealing the eligibility determination only as it relates to your eligibility for financial assistance.
- 5) You testified that you do not think it is fair to have your husband's income considered in determining your eligibility for financial assistance.
- 6) You also testified that you cannot afford to pay the deductible amount and the monthly premium amount to have health insurance through the Marketplace.
- 7) You and your spouse currently reside in Kings County, New York.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Household Income and Size

A taxpayer's family includes all people for whom the taxpayer can properly claim a deduction for a personal exemption (26 CFR § 1.36B-1(d)). In general, household income includes the modified adjusted gross income of every person who is in the taxpayer's family and is required to file a federal tax return (26 CFR § 1.36B-1(e)).

Household size means the number of persons counted as a member of an individual's household. 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)).

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

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 the 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

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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 200% but less than 250% of the FPL, the expected contribution is between 6.34% and 8.10% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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).

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).

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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)).

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance in 2015, 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) at \$118.00 per month and eligible for cost-sharing reductions (CSR).

Household income includes the income of all family members who are required to file a tax return, including the income of spouses. In the application that was submitted on March 24, 2015, you attested to an expected yearly income of \$38,476.36, which includes your earned income of \$16,068.00 (\$309.00 per week) and your spouse's earned income of \$22,408.36 (\$430.93 per week). In calculating your eligibility for financial assistance, the Marketplace relied upon that information.

According to the record, you have a two-person tax household consisting of you and your husband.

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

As of March 24, 2015, your expected household income for 2015 was \$38,476.36. An annual income of \$38,476.36 is 244.60% of the 2014 federal poverty level (FPL) for a two-person household. At 244.60% of the FPL, the expected contribution to the cost of the health insurance premium is 7.91% of income, or \$253.62 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

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(\$371.75 per month) minus your expected contribution (\$253.62 per month), which equals \$118.13 per month. When rounded to the nearest dollar, the Marketplace correctly determined that you are eligible for APTC of \$118.00 per month.

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$ 38,476.36 is 244.6% of the 2014 FPL, the Marketplace correctly found you to be eligible for CSR.

The third 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 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 \$38,476.36 is 241.53% 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 as confirmed by your testimony at the hearing.

Since the March 25, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$118.00 per month, eligible for CSR, and not eligible for Medicaid, it is correct and is AFFIRMED.

Decision

The March 25, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 24, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain eligible for \$118.00 monthly of advance premium tax credits and for cost-sharing reductions.

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

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

Summary

The March 25, 2015 eligibility determination is **AFFIRMED**.

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This decision does not change your eligibility. You remain eligible for \$118.00 monthly of advance premium tax credits and for cost-sharing reductions.

If you are interested in requesting a hardship exemption because the health insurance plans are unaffordable to you, 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]