



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: AP000000002270

[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 April 1, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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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Issues

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

Did the Marketplace properly determine that your spouse is eligible for Medicaid?

Did the Marketplace properly determine that your spouse is not eligible for advance premium tax credits?

Procedural History

On March 31, 2015, you updated your Marketplace account. The Marketplace rendered a preliminary eligibility determination stating that you were eligible to receive up to \$140.00 per month of advance premium tax credits and cost-sharing reductions. Your spouse and your son were determined eligible to receive Medicaid.

On April 1, 2015, the Marketplace issued an eligibility determination notice stating that you are eligible to receive up to \$140.00 of advance premium tax credits and cost-sharing reductions, if you select a silver-level qualified health plan. Your spouse and son were determined eligible for Medicaid effective as of March 1, 2015.

On the same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as your spouse's eligibility for Medicaid.

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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. You are applying for health insurance through the Marketplace for yourself, your spouse and your son.
2. You plan on filing a 2015 federal income tax return with the tax status of married filing jointly and will claim one dependent on that return.
3. You testified that your spouse is pregnant and has a due date of July 25, 2015.
4. According to your March 31, 2015 Marketplace application, you attested that your 2015 expected household income would be \$36,000.00. You attested to monthly gross business income of \$35,000.00 and monthly business expenses of \$32,000.00.
5. You testified that your net monthly income consistently falls between \$3,000.00 and \$3,500.00.
6. Your spouse does not expect any income for 2015.
7. You testified that your spouse's physician does not accept Medicaid and she does not want to change doctors mid-pregnancy.

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

Applicable Law and Regulations

Medicaid Generally:

For purposes of Medicaid eligibility, the family size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) (42 CFR §435.116 (c)(2); NY Department of Social Services Admin Directive 13ADM-03).

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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 \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

Advance Premium Tax Credit:

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2014 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 qualified health plan; 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)).

Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f); 45 CFR § 155.305(f)(1)(B)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, these government-sponsored plans provide minimum essential coverage:

- 1) the Medicare program under part A of title XVIII of the Social Security Act [26 USCS §§ 1395c et seq.]
- 2) the Medicaid program under title XIX of the Social Security Act [26 USCS §§ 1396 et seq.]
- 3) the CHIP program under title XXI of the Social Security Act [26 USCS §§ 1397aa et seq.]
- 4) medical coverage under chapter 55 of title 10, United States Code [10 USCS §§ 1071 et seq.], including coverage under the TRICARE program
- 5) a health care program under chapter 17 or 18 of title 38, United States Code [38 USCS §§ 1701 et seq. or 1801 et seq.], as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary
- 6) a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers)

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7) the Nonappropriated Fund Health Benefits Program of the Department of Defense, established under section 349 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1587 note)

(26 USC § 5000A(F)(1)(A).

Legal Analysis

Currently at issue are the questions of (1) whether the Marketplace correctly found your spouse eligible for Medicaid as of April 1, 2015 and, based on such a finding, (2) whether your spouse is eligible for advance premium tax credits (APTC).

The only Medicaid eligibility requirement currently at issue is the income requirement.

In the application that was submitted on March 31, 2015, you attested to an expected yearly income of \$36,000.00. This expected income was determined based on an attested monthly gross business income of \$35,000.00 and monthly business expenses of \$32,000.00, and the eligibility determination relied upon that information.

You plan on filing a 2015 federal income tax return with the tax status of married filing jointly, with your spouse, and will claim one dependent on that return. Furthermore, you testified that your spouse is currently pregnant. Based on the record, your spouse is in a four-person household.

Medicaid can be provided through the Marketplace to pregnant women who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the federal poverty level (FPL) for the applicable family size. On the date of your March 31, 2015 application, the relevant FPL was \$24,250.00 for a four-person household.

Since \$36,000.00 is 148.45% of the 2015 FPL, the Marketplace properly found your spouse to be eligible for Medicaid based on the expected annual income information provided in your application.

The second issue under review is whether the Marketplace correctly found that your spouse was not eligible for APTC to help pay for the cost of health insurance.

To be eligible for APTC, a person must not be eligible for minimum essential coverage outside of the Marketplace. Minimum essential coverage includes Medicaid health insurance coverage through New York State of Health. Based on

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the Marketplace's April 1, 2015 eligibility determination, your spouse is eligible for Medicaid through the Marketplace.

Therefore, the April 1, 2015 eligibility determination is AFFIRMED.

Decision

The April 1, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: July 24, 2015

How this Decision Affects Your Eligibility

Your spouse remains eligible for Medicaid or to purchase a qualified health plan through the Marketplace at full cost.

You are not eligible for financial assistance because the record shows that your spouse is eligible for Medicaid through the Marketplace.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

The April 1, 2015 eligibility determination is AFFIRMED.

Your spouse remains eligible for Medicaid or to purchase a qualified health plan through the Marketplace at full cost.

Your spouse is not eligible for financial assistance because the record shows that they are eligible for Medicaid through the Marketplace.

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]