



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

Notice of Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002273

[REDACTED]

Dear [REDACTED],

On June 15, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 18, 2015 disenrollment notice and the April 3, 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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Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002273

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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 up to \$266.00 per month in advance premium tax credit and cost-sharing reductions, effective May 1, 2015?

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

Did the Marketplace provide you with proper notice prior to terminating your Medicaid coverage?

Procedural History

On April 30, 2014, the Marketplace issued a notice of eligibility determination stating that you are eligible for Medicaid. The notice further stated that your insurance coverage through Medicaid would begin April 1, 2014, and your enrollment with MetroPlus Health Plan would begin May 1, 2014.

On February 11, 2015, the Marketplace sent you a notice stating it was time for you to renew your health insurance coverage for 2015. The notice further stated that, based on federal and state sources, a decision could not be made about whether or not you qualify for financial help paying for your health coverage. You were requested to update the information in your NY State of Health account by March 15, 2015, or the financial assistance you are receiving might end.

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No updates were made to your account before March 15, 2015.

On March 17, 2015, the Marketplace issued a notice of eligibility determination stating that you are not eligible for Medicaid, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance; you also could not enroll in a qualified health plan at full cost through the Marketplace. This was because you did not respond to the renewal notice and did not complete your renewal within the required time frame.

On March 18, 2015, the Marketplace issued a disenrollment notice stating that your Medicaid managed Care plan coverage with MetroPlus Health Plan would end effective March 31, 2015 because you were no longer eligible to enroll in health insurance through the Marketplace.

On April 2, 2015, the information in your Marketplace account was updated. That day, a preliminary eligibility determination was prepared in your case stating that you are eligible to receive an advance premium tax credit (APTC) of up to \$266.00 per month and if you enrolled in a silver-level health plan, cost-sharing reductions (CSR). This preliminary determination was based on an expected household income of \$26,313.00.

Also on April 2, 2015, you spoke with the Marketplace's Account Review Unit and appealed that preliminary determination insofar as it did not determine you eligible for Medicaid.

On April 3, 2015, the Marketplace issued a notice of eligibility determination stating that you are eligible to receive APTC of up to \$266.00 per month and, if you selected a silver-level plan, CSR. The notice further stated that you are not eligible for Medicaid because the household income you provided is over the allowable income limit for that program. This eligibility was effective May 1, 2015.

On June 15, 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 and reside with your spouse.
- 2) According to the April 2, 2015 application for health insurance, you expect to file your 2015 federal income tax return jointly with your spouse and claim no dependents.

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- 3) You testified that you do not expect to file taxes, therefore, your spouse does not expect to file her federal income tax return jointly for the 2015 tax year.
- 4) The record reflects that you are the only individual in your household seeking insurance through the Marketplace.
- 5) According to the April 2, 2015 application, you attested to an expected household income of \$26,313.00, which is solely comprised of your spouse's income. You testified that this is an accurate reflection of your spouse's expected household income for the 2015 tax year based on your 2014 joint federal income tax return.
- 6) You testified that you do not have any income, are currently unemployed, and do not expect to file a federal income tax return for the 2015 tax year, therefore your spouse's income should not be considered as part of your household income.
- 7) You testified, and the record reflects, that you reside in New York County, New York.
- 8) The record reflects that you elected to receive all information from the Marketplace electronically.
- 9) You testified that you may have received the February 11, 2015 renewal notice but did not look at it before the renewal period had expired.
- 10) The record reflects that you were determined eligible for Medicaid effective April 1, 2014 to March 31, 2015.
- 11) You testified that you did not receive any notice that your Medicaid coverage was terminated. This issue was raised at the time of the hearing.
- 12) The record reflects that the March 18, 2015 disenrollment notice was uploaded to your Marketplace account on March 18, 2015.
- 13) The record reflects that your spouse's name is "[REDACTED]." You testified that this is an error, and your spouse's name is "[REDACTED]."

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)).

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).

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).

For annual household income in the range of at least 200% but less than 250% 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).

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Generally, a taxpayer who is married must file a joint return with his or her spouse to be eligible for an APTC (45 CFR § 155.310(d); 26 CFR § 1.36B-2).

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 federal poverty level (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)).

Family 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)).

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).

Proper Notice – Medicaid

The Marketplace must provide all applicants and beneficiaries with timely and adequate written notice of any decision affecting their eligibility, including a denial, termination, or suspension of eligibility, or a denial or change in benefits and services (42 CFR § 435.919(a)).

After any decision affecting the enrollee's eligibility, including denial, termination, or suspension of eligibility, notice must be sent at least 10 days before such action goes into effect (18 NYCRR § 358-2.23).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible to receive an advance premium tax credit (APTC) of up to \$266.00 per month and cost-sharing reductions (CSR) effective May 1, 2015.

According to the April 2, 2015 application for health insurance, you expect to file your 2015 federal income tax return jointly with your spouse, and claim no dependents; therefore, you are a two-person tax household.

According to the same application, you attested to an expected household income of \$26,313.00. The eligibility determination relied upon that information.

You reside in New York County, New York, 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 \$26,313.00 is 167.28% of the 2014 federal poverty level (FPL) for a two-person household. At 167.28% of the FPL, the expected contribution to the cost of the health insurance premium is 4.82% of income, or \$105.73 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 (\$105.73 per month), which equals \$266.02 per month. Rounded to the nearest dollar, the Marketplace properly determined your APTC to be \$266.00 per month.

Cost-sharing reductions are available to a person who is eligible to enroll in a qualified health plan (QHP) through the Marketplace, meets the requirements to receive APTC, is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested, and is enrolled in a silver-level QHP. Since you are eligible to enroll in a QHP, qualify for APTC, and have a household income that does not exceed 250% of the FPL, the Marketplace correctly determined that you are eligible for cost-sharing reductions if you enroll in a silver level QHP.

The next issue is whether the Marketplace properly determined that you are not eligible for Medicaid.

Medicaid is available to adults who meet the nonfinancial requirements, and have a household income at or below 138% of the FPL for the applicable family size. A household income of \$26,313.00 is 165.18% of the 2015 FPL for a two-person household, therefore the Marketplace properly determined that you are not eligible for Medicaid.

However, you testified that you believe your spouse's income should not have been considered in making the April 3, 2015 eligibility determination because you do not intend to file a joint tax return with her in 2015. 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. Since you are married, your spouse is considered part of your household; therefore her income must be included when calculating your household income.

Additionally, you have testified that you no longer intend to file a tax return.

Since the April 3, 2015 notice of eligibility determination accurately stated that, based on the information in your April 2, 2015 application, you are not eligible for Medicaid but are eligible to receive an APTC of up to \$266.00 per month and, if you enroll in a silver level plan, CSR, it was correct and would have been affirmed, except you now state that you will not be filing a tax return. Therefore you are not entitled to APTC or CSR.

The last issue is whether the Marketplace provided you with proper notice prior to terminating your Medicaid coverage.

The Marketplace must provide all applicants and beneficiaries with timely and adequate written notice of any decision affecting their eligibility, including a termination in benefits and services. Notice is timely if it is sent at least 10 days before the action becomes effective.

The record reflects that you were determined eligible for Medicaid effective April 1, 2014 to March 31, 2015.

On March 18, 2015, the Marketplace sent you a notice that your Medicaid managed care plan enrollment with MetroPlus Health Plan will end effective March 31, 2015. This notice was sent 13 days prior to the termination of your Medicaid coverage.

You testified that you did not receive the disenrollment notice prior to the termination of your Medicaid coverage; however, the credible evidence of record reflects that you elected to receive notices from the Marketplace electronically. The record further reflects that this notice was uploaded to your Marketplace account on March 18, 2015.

Since the Marketplace provided you notice of the action to terminate your Medicaid coverage more than ten days prior to its effective date, the Marketplace provided you timely notice and, therefore, properly terminated your Medicaid coverage on March 31, 2015.

Therefore, the March 18, 2015 disenrollment notice is AFFIRMED.

The record reflects that the information contained in your Marketplace application is no longer accurate. At the hearing, you testified that you do not intend to file a tax return in 2015.

To be eligible for APTC, a person must attest to filing a tax return. In addition, a taxpayer who is married must file a joint return with his or her spouse to be eligible for an APTC.

Therefore the April 3, 2015 eligibility determination is MODIFIED to reflect that you are currently not entitled to APTC or CSR.

Decision

The March 18, 2015 disenrollment notice is AFFIRMED.

The April 3, 2015 notice of eligibility determination is MODIFIED to reflect that you are currently not entitled to advance premium tax credit or cost-sharing reductions.

Effective Date of this Decision: October 10, 2015

How this Decision Affects Your Eligibility

You are no longer eligible to receive advance premium tax credit or cost-sharing reductions.

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

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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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 18, 2015 disenrollment notice is AFFIRMED.

The April 3, 2015 notice of eligibility determination is is MODIFIED to reflect that you are currently not entitled to advance premium tax credit (APTC) or cost-sharing reductions (CSR).

You are no longer eligible to receive APTC or CSR.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

