



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

Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002305

[REDACTED]

Dear [REDACTED]

On May 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 7, 2015 eligibility determination notice.

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).

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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NY State of Health Number: [REDACTED]
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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 \$54.00 per month in advance premium tax credit?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

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

Procedural History

On May 8, 2014, the Marketplace issued an eligibility determination notice that stated that you were conditionally eligible for Medicaid effective May 1, 2014. You were asked to provide proof of citizenship to confirm your eligibility by August 8, 2014.

On November 30, 2014, the Marketplace issued an eligibility determination notice that stated you remained conditionally eligible for Medicaid. You were asked to provide proof of citizenship to confirm your eligibility by January 6, 2015.

On January 10, 2015, the Marketplace issued an eligibility redetermination notice that stated you were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-reductions; you also were not eligible to enroll in a qualified health plan at full-cost because you did not provide citizenship information to confirm your eligibility.

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On March 31, 2015, the income information in your Marketplace account was updated.

On April 1, 2015, the Marketplace issued an eligibility redetermination notice that stated you were conditionally eligible to receive up to \$54.00 per month in advance premium tax credits (APTC). You were not eligible for cost-sharing reductions or for Medicaid because your income was over the allowable limit for those programs. You were asked to provide proof of citizenship to confirm your eligibility by June 28, 2015.

On April 6, 2015, the Marketplace received your updated application for health insurance. That day, the Marketplace prepared a preliminary eligibility determination that stated you were conditionally eligible to receive up to \$54.00 per month in APTC.

Also on April 6, 2015, you spoke to the Marketplace's Account Review Unit and appealed that preliminary eligibility determination insofar as you were not eligible for Medicaid.

On April 7, 2015, the Marketplace issued an eligibility redetermination notice that stated you were conditionally eligible to receive up to \$54.00 per month in APTC. You were not eligible for cost-sharing reductions or for Medicaid because your income was over the allowable limits for those programs. You were directed to provide proof of citizenship to confirm your eligibility by July 6, 2015.

On May 11, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing Urdu Interpreter # [REDACTED] interpreted. The record was developed during the hearing and left open for 15 days to allow you time to submit proof of you and your spouse's income for the month of April and a copy of your certificate of naturalization. On May 18, 2015 the Marketplace received a fax containing the documentation. The record is now closed.

Findings of Fact

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

- 1) The application that was submitted on April 6, 2015 stated that you intended to file your 2015 taxes with a tax filing status of married filing jointly. However, even though your child was listed on that application, you indicated that you would not be claiming him as a dependent.

- 2) You testified that you expect to file your 2015 taxes with a tax filing status of married filing jointly. You further testified that you will claim your one child as a dependent on that tax return.
- 3) The application that was submitted on April 6, 2015 listed an expected annual household income of \$43,209.92. This income consisted of \$18,694.00 that you expect to receive from your job and \$24,515.92 that your husband expects to receive in income from his job.
- 4) You testified that the annual expected income amount that was listed on your application is correct.
- 5) You testified that you and your husband's income vary monthly.
- 6) You provided copies of your husband's paystubs. You provided a paystub dated March 19, 2015 for a gross pay amount of \$515.96, a paystub dated March 26, 2015 for a gross pay amount of \$529.55, a paystub dated April 2, 2015 for a gross pay amount of \$492.86, and a paystub dated April 9, 2015 for a gross pay amount of \$495.58.
- 7) You provided copies of your paystubs. You provided a paystub dated March 19, 2015 for a gross pay amount of \$371.21, a paystub dated March 26, 2015 for a gross pay amount of \$368.51, a paystub dated April 2, 2015 for a gross pay amount of \$311.75, and a paystub dated April 9, 2015 for a gross pay amount of \$426.62.
- 8) You provided a copy of your certificate of naturalization.
- 9) You testified that you do not expect to take any deductions on your 2015 tax return.
- 10) You testified that you reside in Kings County, NY.
- 11) You testified that you are only appealing your eligibility determination.

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 poverty line (2) expects to file

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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 the 2015 tax year is set by federal law at 2.01% to 9.56% of annual household income (26 USC § 36B(b)(3)(A)).

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 (78 Fed. Reg. 5182, 5183).

For annual household income in the range of at least 250% but less than 300% of the 2015 FPL, the expected contribution for the 2015 tax year is between 8.10% and 9.56% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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 plan year coverage is requested and (4) is enrolled in a silver-level QHP (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

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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 not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

Medicaid Continuous Coverage

Under New York's Social Services Law, a person who is found eligible for Medicaid based on his household's MAGI but loses that eligibility “for a reason other than citizenship status, lack of state residence, or failure to provide a valid social security number” keeps their Medicaid for 12 months, “provided that federal financial participation in the costs of such assistance is available” (Soc. Serv. Law § 366(4)(c)). This provision is referred to as “continuous coverage” and the 12-month period of continuous coverage is based on the date of Medicaid eligibility.

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 \$54.00 per month.

The application that was submitted on April 6, 2015 listed a household income of \$43,209.92. The application also stated that you were in a household of two people because you were going to file your 2015 tax return as married filing jointly and claim no dependents on that income tax return. The eligibility determination relied upon that information.

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

An annual income of \$43,309.92 is 274.71% of the 2014 federal poverty level (FPL) for a two-person household. At 274.71% of the FPL, the expected

contribution to the cost of the health insurance premium is 8.82% of income, or \$317.59 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 (\$317.59 per month), which equals \$54.16 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be up to \$54.00 per month.

The second issue is whether or not you were properly found not eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$43,209.92 is 274.71% of the 2014 FPL, the Marketplace correctly found you to be ineligible for cost sharing reductions.

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 \$43,209.92 is 271.25% 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.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

To be eligible for Medicaid on a monthly income basis, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,832.00 per month. You submitted two paystubs for you and your husband for the month of March and two paystubs for the month of April. Since you did not provide a complete month of paystubs for you and your husband we are unable to calculate your eligibility for Medicaid based on your monthly income.

Please note that generally once a person is found eligible for Medicaid, they are eligible for Medicaid for 12 continuous months regardless of a change in income or household size. However, in the May 8, 2014 and the November 30, 2014 eligibility determinations you were only conditionally eligible for Medicaid. In order for “continuous coverage” to apply you would have had to been fully eligible for

Medicaid at some point before you updated the income information on your application.

Since the April 7, 2015 eligibility determination properly stated that, based on the information you provided, you were conditionally eligible for APTC of up to \$54.00 per month, not eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, during the hearing you testified that you will claim your child as a dependent on your 2015 tax return. By claiming your child as a dependent, your household size increases by one person. Therefore, your case is RETURNED to the Marketplace for a redetermination of your eligibility based on a household of three people, residing in Kings County, with an expected household income of \$43,209.92. The Marketplace is also directed to verify the citizenship documentation you provided if it has not already done so.

Decision

The April 7, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace for a redetermination of your eligibility based on a household of three people, residing in Kings County, with an expected household income of \$43,209.92. The Marketplace is also directed to verify the citizenship documentation you provided if it has not already done so.

Effective Date of this Decision: August 14, 2015

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility for financial assistance.

Your case is being sent back to the Marketplace for a redetermination of your eligibility based on a household of three people, residing in Kings County, with an expected household income of \$43,209.92.

The Marketplace is also directed to verify the citizenship documentation you provided if it has not already done so.

If You Disagree with this Decision (Appeal Rights)

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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 April 7, 2015 eligibility determination notice is AFFIRMED.

This is not a final determination of your eligibility for financial assistance.

Your case is being sent back to the Marketplace for a redetermination of your eligibility based on a household of three people, residing in Kings County, with an expected household income of \$43,209.92.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]