



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

Notice of Decision

Decision Date: July 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002318

[REDACTED]
[REDACTED] [REDACTED] [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 February 7, 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).

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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[REDACTED]
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Issues

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

Did the Marketplace properly determine that you and your spouse are eligible to receive up to \$350.00 monthly of advance premium tax credit (APTC) and cost-sharing reductions, if you enroll in a silver-level qualified health plan as of February 7, 2015?

Did the Marketplace properly determine that your children were eligible for Child Health Plus with a \$15.00 monthly premium as of February 7, 2015?

Did the Marketplace properly determine that you, your spouse and children are not eligible for Medicaid as of February 7, 2015?

Procedural History

On February 7, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse are eligible to receive up to \$350.00 monthly of advance premium tax credits and cost-sharing reductions, if you enroll in a silver-level qualified health plan. The notice stated your children were eligible to enroll through Child Health Plus with a \$15.00 premium per month. The notice stated that you, your spouse and children are not eligible for Medicaid because the household income you provided is over the allowable income limit.

On April 7, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal insofar as the amount of financial assistance you, your spouse and children were determined eligible to receive.

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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 left open until May 13, 2015 to allow you submit additional documentation. No documentation was received within the allotted time. The record is now complete and closed.

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 two children.
2. You testified that you plan on filing a 2015 federal income tax return with the tax status of married filing jointly and will claim your eight and six-year-old children as dependents on that tax return.
3. According to your February 6, 2015 Marketplace application, your 2015 expected annual household income is \$59,003.00.
4. You testified that your spouse is currently employed and receives consistent biweekly paychecks.
5. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.
6. You stated during the hearing that you would fax additional income documentation to the Marketplace Appeals Unit to demonstrate your monthly expenses by May 13, 2015. No additional documentation was received during the allotted time.
7. You currently reside in Queens County, NY.

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 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 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 qualified health plan; and (3) is not otherwise

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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).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (see 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 benefit year for which coverage is requested. (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$23,850.00 for a four-person household (79 Fed. Reg. 3593, 3593).

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 advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent 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)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and

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- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health L. § 2511(2)(a)-(e))

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in Child Health Plus depends upon the child's family household income (N.Y. Pub. Health L. § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the federal poverty level. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (N.Y. Pub. Health L. § 2510(9)(d)).

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 \$24,250.00 for a four-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).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan QHP. Such an exemption may be granted if that person can show that 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 qualified health plan (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)).

Legal Analysis

The first issue is whether the Marketplace properly determined you and your spouse eligible for up to \$350.00 monthly of advance premium tax credit (APTC).

According to the record, you have a four-person tax household. You expect to file your 2015 federal income tax return with the tax status of married filing jointly and will claim two dependents on that return.

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$743.50 per month.

The February 7, 2015 eligibility determination was based on an annual household income of \$59,003.00, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$59,003.00 equals 247.39% of the 2014 federal poverty level (FPL) for a four-person household. At 247.39% of the FPL, the expected contribution to the cost of the health insurance premium is 8.01% of income, or \$393.75 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$743.50 per month) minus your expected contribution (\$393.75 per month), which equals \$349.75 per month. Therefore, the Marketplace correctly computed your APTC to be \$350.00 per month.

The second issue is whether the Marketplace properly determined you and your spouse eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 247.39% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined your children eligible to enroll in Child Health Plus with a \$15.00 monthly premium.

A child who meets the eligibility requirements for Child Health Plus (CHP) coverage may be eligible for subsidized premiums if the household income is at or below 400% of the FPL. No payments are required at a household income

lower than 160% of the FPL, and premiums range from \$9.00 per month to \$60.00 per month between 160% and 400% of the FPL.

A household income between 223% and 250% of the FPL, the CHP premium is \$15.00 per child. Since an income \$59,003.00 is 243.31% of the 2015 FPL, the Marketplace correctly set the premium at \$15.00 monthly per child.

The fourth issue is whether the Marketplace properly determined that you, your spouse and children are not eligible 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.

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household's modified adjusted gross income falls at or below 154% of the FPL.

On the date of your application, the relevant FPL was \$24,250.00 for a four-person household. Since \$59,003.00 is 243.31% of the 2015 FPL, the Marketplace properly found you, your spouse and children to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the February 7, 2015 eligibility determination properly stated that, based on the information you provided: you and your spouse are eligible for APTC of up to \$350.00 per month and eligible for cost-sharing reductions; your children are eligible to enroll in Child Health Plus with a \$15.00 monthly premium; you, your spouse and children are not eligible for Medicaid, it is correct and is AFFIRMED.

Decision

The February 7, 2015 eligibility determination is AFFIRMED.

This decision has no effect on any determination made after February 7, 2015.

Effective Date of this Decision: July 28, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

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).

You and your spouse remain eligible to receive an advance premium tax credit of up to \$350.00 per month and cost-sharing reductions, if you enroll in a silver-level qualified health plan as of February 7, 2015.

Your children remain eligible to enroll in Child Health Plus with a \$15.00 monthly premium as of February 7, 2015.

You, your spouse and children remain not eligible to enroll in Medicaid as of February 7, 2015.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 7, 2015 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You and your spouse remain eligible to receive an advance premium tax credit of up to \$350.00 per month and cost-sharing reductions, if you enroll in a silver-level qualified health plan as of February 7, 2015.

Your children remain eligible to enroll in Child Health Plus with a \$15.00 monthly premium as of February 7, 2015.

You, your spouse and children remain not eligible to enroll in Medicaid as of February 7, 2015.

This decision has no effect on any determination made after February 7, 2015.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

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] [REDACTED]
[REDACTED]
[REDACTED]