



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

Notice of Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002362

[REDACTED]

Dear [REDACTED],

On May 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 11, 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 Code of 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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Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
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[REDACTED]

Issues

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

Did the Marketplace properly determine that you and your spouse were eligible to receive up to \$484.00 per month in advance premium tax credits and eligible for cost-sharing reductions, effective May 1, 2015?

Did the Marketplace properly determine that you and your spouse were eligible for additional assistance under the APTC Premium Assistance Program, effective May 1, 2015?

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

Procedural History

On March 23, 2015, the Marketplace received a copy of (1) your Unemployment Insurance Monetary Benefit Determination issued on February 17, 2015, (2) an earnings statement issued to you by [REDACTED] on February 2, 2015, (3) an Estimated Separation Benefit Information summary issued by [REDACTED], effective February 1, 2015, (4) you and your spouse's joint U.S. Tax Return for 2014, including a Schedule C for your spouse's business, as well as a corresponding New York State income tax return for 2014, and (5) your BlueCross BlueShield insurance membership cards.

On April 10, 2015, the Marketplace received your updated application for health insurance.

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On April 11, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the April 10, 2015 application, stating that you and your spouse were eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$484.00 per month; eligible for cost-sharing reductions (CSR), provided you selected a silver-level plan, and eligible for the APTC Premium Assistance Program, effective May 1, 2015. It also stated that you and your spouse were not eligible for Medicaid. This determination was based, in part, on an annual household income of \$34,420.60. You appealed this determination insofar as you and your spouse were found ineligible for Medicaid.

On April 14, 2015, the Marketplace received a Certificate of Health Coverage issued by BlueCross BlueShield on March 25, 2015.

On May 12, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Your spouse appeared at the hearing as a witness. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) earnings statements received by you reflecting severance payments received during April 2015; (2) the last earning statement received from prior employer reflecting your year to date income during 2015; (3) your unemployment online benefits history reflecting your weekly payments; and (4) your spouse's business records reflecting income, expenses and applicable deductions during April 2015. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by May 27, 2015.

Accordingly, the record was closed on May 27, 2015.

Findings of Fact

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

- 1) You testified that you expect to file your 2015 taxes jointly with your spouse. You will claim both of your children as dependents on that tax return.
- 2) Your application indicates that your two children are under the age of 21.
- 3) The application that was submitted on April 10, 2015, listed an expected yearly income of \$29,150.60, consisting of \$18,230.60 in earned income from your employer, [REDACTED], and \$10,920.00 in unemployment benefits. You testified that this amount was correct.

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- 4) You testified you were laid off on or about January 27, 2015.
- 5) You testified that aside from earnings you received from [REDACTED] up to the termination of your employment on January 27, 2015, you received a total of \$11,200.00 paid out in weekly installments over 8 weeks as part of a severance package. You further testified that you received the last installment sometime in April 2015.
- 6) You testified that you were covered by your prior employer's insurance through COBRA until April 2015.
- 7) You testified that you filed for unemployment benefits on or about February 9, 2015. You further testified that you were awarded \$420.00 per week in benefits, with the first such payment having been received on March 1, 2015.
- 8) In the April 10, 2015 application, you listed your spouse as expecting to receive a net income of approximately \$5,270.00, consisting of \$5,671.00 in income from his fishing hook business while claiming \$401.00 in deductions relating to the self-employment tax.
- 9) Your spouse testified during the hearing that his business earnings are in flux and has experienced a slowdown based on competition.
- 10) Your spouse testified that while he expects to make less income this year as a result of such competition, he was unable to make an estimate.
- 11) Your application states that you live in Erie County.

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)).

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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 \$23,850.00 for a four-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 133% but less than 150% of the 2014 FPL, the expected contribution is between 3.02% and 4.02% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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)).

APTC Premium Assistance

Advance premium tax credit (APTC) Premium Assistance is available in New York State to a person who:

- 1) is a parent of a child under 21 years old;

- 2) has a household income greater than 138% of the FPL but less than or equal to 150% of the FPL for the applicable family size;
- 3) is not eligible for Medicaid;
- 4) is enrolled in a silver-level QHP; and
- 5) is applying the full amount of the APTC to the cost of the plan

(N.Y. Soc. Serv. Law § 367-a(3)(e)).

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).

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 \$484.00 per month.

In the application that was submitted on April 10, 2015, you reported an annual household income of \$34,420.60, which included (1) \$18,230.60 in earned income you received from [REDACTED] prior to being laid off, (2) \$10,920.00 (\$420 x 26 weeks) in total expected unemployment benefits, (3) \$5,671.00 in business income your spouse expects to receive *minus* (4) \$401.00 in anticipated deductions relating to the self-employment tax. The eligibility determination relied upon that information.

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You are in a four-person household. You expect to file your 2015 income taxes jointly with your spouse and will claim your two children as dependents on that tax return.

You reside in Erie County, where the second lowest cost silver plan available for a couple through the Marketplace costs \$590.03 per month.

An annual income of \$34,420.60 is 144.32% of the 2014 Federal Poverty Level (FPL) for a four-person household. At 144.32% of the FPL, the expected contribution to the cost of the health insurance premium is 3.69% 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 (\$590.03 per month) minus your expected contribution (\$105.73 per month), which equals \$484.30 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your spouse to be eligible for up to \$484.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions (CSR). CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$34,420.60 is 144.32% of the applicable FPL, the Marketplace correctly found you and your spouse to be eligible for CSR.

The third issue is whether the Marketplace properly determined you and your spouse eligible for the APTC Premium Assistance Program.

APTC Premium Assistance is available to a person who has an annual household income that is between 138% and 150% of the FPL, is a parent of a child under 21 years old, not eligible for Medicaid, enrolled in a silver-level plan and applying the full amount of APTC to the cost of that plan. An annual household income of \$34,420.60 is 144.32% of the 2014 FPL. The credible evidence of record also reflects that you and your spouse are the parents of two children under the age of 21 years old, not eligible for Medicaid, enrolled in silver-level plan and applying the entire APTC of \$484.00 per month toward the cost of that plan. Accordingly, the Marketplace correctly found you and your spouse eligible for APTC Premium Assistance.

The final 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

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\$24,250.00 for a four-person household. Since \$34,420.60 is 141.94% of the 2015 FPL, the Marketplace properly found you and your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the April 11, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$484.00 per month in APTC, eligible for CSR, eligible for APTC Premium Assistance, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, financial eligibility for Medicaid for applicants who are currently receiving Medicaid benefits is based on current monthly household income and family size.

At the hearing, the Hearing Officer directed you to provide multiple documents reflecting your earnings during the month of your application, April 2015, to review you and your spouse's eligibility for Medicaid during that month. Since you did not provide the Hearing Officer with any of those documents, there is no basis to return your application to the Marketplace for a redetermination of your eligibility.

Decision

The April 11, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: August 25, 2015

How this Decision Affects Your Eligibility

You and your spouse remain eligible for up to \$484.00 in APTC.

You and your spouse remain eligible for CSR.

You and your spouse remain eligible for APTC Premium Assistance.

You and your spouse are ineligible for Medicaid.

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.

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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 11, 2015 eligibility determination notice is AFFIRMED.

You and your spouse remain eligible for up to \$484.00 in APTC.

You and your spouse remain eligible for CSR.

You and your spouse remain eligible for APTC Premium Assistance.

You and your spouse are ineligible for Medicaid.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

