



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: AP000000002416

[REDACTED]

Dear [REDACTED],

On May 13, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 15, 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

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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Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002416

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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 eldest son are eligible to receive up to \$213.00 monthly of advance premium tax credit (APTC) and not eligible to receive cost-sharing reductions as of April 15, 2015?

Did the Marketplace properly determine that your youngest son is eligible for Child Health Plus with a \$30.00 monthly premium as of April 15, 2015?

Procedural History

On April 14, 2015, you applied for health insurance through the Marketplace for yourself and your two children.

On April 15, 2015, the Marketplace issued an eligibility determination notice stating that you and your eldest son are eligible to receive up to \$213.00 of monthly advance premium tax credits and not eligible for cost-sharing reductions. The notice stated your youngest son is eligible to enroll through Child Health Plus with a \$30.00 premium per month.

On the same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the amount of financial assistance you and your children were determined eligible to receive.

On May 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken and the record was developed during the hearing. 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 and your two children (ages 17 and 24).
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 two children as dependents on that tax return.
3. According to your April 14, 2015 Marketplace application, your 2015 expected annual household income is \$60,967.35.
4. You testified that you are employed by three employers.
5. Based on your 2014 income, you testified that you expect to receive respectively from each of your employers in 2015:
 - (a) \$5,999.94;
 - (b) \$44,692.64; and
 - (c) \$3,653.55.
6. Based on your 2014 income, you testified that you expect to claim a \$27,544.00 deduction on your 2015 federal income tax return.
7. You testified that your spouse earned \$24,958.23 in 2014 and you expect her to earn approximately the same income in 2015.
8. You testified that your spouse was injured at work and has not worked since April 27, 2015.
9. You testified that your twenty-four-year-old son earned \$9,206.99 in 2014 and expect him to earn approximately the same income in 2015.
10. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.
11. You currently reside in Richmond 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 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 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% of the household income (see 26 CFR § 1.36B-3T(g)(1), (IRS Rev. Proc. 2014-37)).

In an analysis of Advance Premium Tax Credits (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
- 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)).

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

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).

The first issue is whether the Marketplace properly determined you and your eldest son eligible for up to \$213.00 monthly of Advance Premium Tax Credits (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 Richmond County, where the second lowest cost silver plan that is available through the Marketplace for a primary subscriber and a dependent costs \$633.09 per month.

The April 15, 2015 eligibility determination was based on an annual household income of \$60,967.35, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$60,967.35 equals 255.63% of the 2014 FPL for a four-person household. At 255.63% of the Federal Poverty Level (FPL), the expected contribution to the cost of the health insurance premium is 8.26% of income, or \$419.66 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$633.09 per month) minus your expected contribution (\$419.66 per month), which equals \$213.43 per month. Therefore, the Marketplace correctly computed your APTC to be \$213.00 per month.

The second issue is whether the Marketplace properly determined you and your eldest son 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 255.63% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found not eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined your children eligible to enroll in Child Health Plus (CHP) with a \$30.00 monthly premium.

A child who meets the eligibility requirements for 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 251% and 300% of the FPL, the CHP premium is \$30.00 per child. Since an income \$60,967.35 is 251.41% of the 2015 FPL, the Marketplace correctly set the premium at \$30.00 monthly per child.

You testified that your spouse was injured at her place of employment and has not returned to work since April 17, 2015. At this time the record does not contain sufficient testimony or documentation to return your case to Marketplace to recalculate your benefits. However, please contact the Marketplace when you have sufficient documentation of your change in income.

Since the April 15, 2015 eligibility determination properly stated that, based on the information you provided: you and your eldest son are eligible for APTC of up to \$213.00 per month and not eligible for cost-sharing reductions, and your youngest son eligible to enroll in Child Health Plus with a \$30.00 monthly premium, it is correct and is AFFIRMED.

Decision

The April 15, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: August 25, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You and your eldest son remain eligible to receive an advance premium tax credit of up to \$213.00 per month and not eligible for cost-sharing reductions as of April 15, 2015.

Your youngest son remains eligible to enroll in Child Health Plus with a \$30.00 monthly premium as of April 15, 2015.

This Decision has no effect on any determinations made after April 15, 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 15, 2015 eligibility determination is **AFFIRMED**.

You and your eldest son remain eligible to receive an advance premium tax credit of up to \$213.00 per month and not eligible for cost-sharing reductions as of April 15, 2015.

Your youngest son remains eligible to enroll in Child Health Plus with a \$30.00 monthly premium as of April 15, 2015.

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).

This Decision has no effect on any determinations made after April 15, 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:

