



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

Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002491

[REDACTED]

Dear Mr. [REDACTED]

On May 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 21, 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 (CFR) 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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Issues

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

Did the Marketplace properly determine that you, your spouse, your son ([REDACTED]) and your daughter ([REDACTED]) were newly eligible to receive up to \$822.00 per month in advance premium tax credit and cost-sharing reductions, effective June 1, 2015?

Did the Marketplace properly determine that you, your spouse, your son ([REDACTED]) and your daughter ([REDACTED]) were not eligible for Medicaid?

Procedural History

On April 11, 2015, the Marketplace issued a notice stating that it was time to renew your health insurance. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether any of your household members would qualify for financial help paying for their health coverage, and that you needed to update your account by May 15, 2015 or you and your household members might lose the financial assistance you were currently receiving.

On April 15, 2015, the Marketplace received an update to your application; however, your eligibility was not redetermined until April 20, 2015.

On April 21, 2015, the Marketplace issued an eligibility redetermination notice finding you, your spouse, your son, [REDACTED] and your daughter, [REDACTED] eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium

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tax credit (APTC) of up to \$822.00 per month; and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). You all were found ineligible for Medicaid. This eligibility was effective June 1, 2015. The notice further stated that your sons, [REDACTED] and [REDACTED] and your mother-in-law, [REDACTED] remained eligible for Medicaid, also effective June 1, 2015. You appealed this determination insofar as you, your spouse, [REDACTED] and [REDACTED] were found not eligible for Medicaid.

On May 20, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. 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) your earnings statements received from [REDACTED] during April 2015, (2) your spouse's earnings statements received from her employer, [REDACTED] during April 2015, (3) [REDACTED] earnings statements received from her employer, [REDACTED] during April 2015, and (4) the last earnings statement received by [REDACTED]. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On May 29, 2015, you provided the above-referenced earning statements to the Appeals Unit through your Marketplace online account, which were made part of the record.

Accordingly, the record was closed on May 29, 2015.

Findings of Fact

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

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly. You will be claiming [REDACTED] [REDACTED] and [REDACTED] as your dependents on that tax return.
- 2) You are seeking insurance for yourself, your spouse, and your children [REDACTED] and [REDACTED] since the remaining members of your household were found eligible for Medicaid, effective June 1, 2015.
- 3) The application that was submitted on April 15, 2015 listed an annual household income of \$51,184.94, consisting of (1) \$18,796.22 you earn from your employer, [REDACTED] (2) \$19,084.72 your spouse earns from her employer, [REDACTED] and (3) the \$11.00 per hour at 22 hours per week [REDACTED] receives from her employer. You testified that this amount was correct. You also attested in your

- application that both [REDACTED] and [REDACTED] receive no income and the family provides their financial support.
- 4) Your application states that you will not be taking any deductions on your 2015 tax return.
 - 5) You testified that you are currently employed by [REDACTED] and receive compensation once every two weeks.
 - 6) On May 29, 2015, you provided multiple earning statements to the Marketplace that you received from your employer, [REDACTED]: (1) \$740.00 on April 1, 2015, (2) \$814.00 on April 15, 2015 and (3) \$733.06 on April 29, 2015.
 - 7) You testified that your spouse is currently employed by [REDACTED] and receives compensation once every two weeks.
 - 8) On May 29, 2015, you provided multiple earning statements to the Marketplace reflecting that your spouse received from her employer, [REDACTED] \$644.40 on April 24, 2015.
 - 9) You testified that your daughter, [REDACTED] is employed by [REDACTED] and that she began her employment at the beginning of April 2015.
 - 10) On May 29, 2015, you provided a single earning statement to the Marketplace reflecting that [REDACTED] received \$256.85 on April 30, 2015; however, the year-to-date total reflected in that earning statement indicates that her total earnings received up to April 30, 2015 was \$1,903.17.
 - 11) You testified, and your application reflects, that your son, [REDACTED] and your mother-in-law are dependent upon the family for financial support and do not receive any income.
 - 12) You testified that your son, [REDACTED] is employed by [REDACTED], [REDACTED] but expect his employment to conclude at the end of April since his employment is connected to a trade school.
 - 13) Your application states that you and your family live in Queens County, New York.

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 generally 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 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)).

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 \$27,910.00 for a five-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 150% but less than 200% 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).

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

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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 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 \$28,410.00 for a five-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, your spouse, [REDACTED] and [REDACTED] eligible for an APTC of up to \$822.00 per month.

The application that was submitted on April 15, 2015 listed an annual household income of \$51,184.94, which consisted of (1) \$18,796.22 you earn from your employer, [REDACTED], (2) \$19,084.72 your spouse earns from her employer, [REDACTED] and (3) the \$12,584.00 (\$11.00 per hour x 22 hours per week x 52 weeks) [REDACTED] receives from her employer. The eligibility determination relied upon that information.

You, your spouse, [REDACTED] and [REDACTED] are in a five-person household. You expect to file you 2015 income taxes as married filing jointly and will claim [REDACTED] [REDACTED] and your mother-in-law, [REDACTED] as dependents on that tax return.

You reside in Queens County, where the second lowest cost silver plan available for a couple and two dependents through the Marketplace costs \$1,059.49 per month.

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An annual income of \$51,184.94 is 183.39% of the 2014 FPL for a five-person household. At 183.39% of the FPL, the expected contribution to the cost of the health insurance premium is 5.57% of income, or \$237.56 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 a primary subscriber and one dependent in your county (\$1,059.49 per month) minus your expected contribution (\$237.56 per month), which equals \$821.93 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you, your spouse, [REDACTED] and [REDACTED] to be eligible for up to \$822.00 per month in APTC.

The second issue is whether you, your spouse, [REDACTED] and [REDACTED] 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 \$51,184.94 is 183.39% of the applicable FPL, the Marketplace correctly found you, your spouse, [REDACTED] and [REDACTED] to be ineligible for CSR.

The third issue is whether the Marketplace properly determined that you, your spouse, [REDACTED] and [REDACTED] to be 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 \$28,410.00 for a five-person household. Since \$51,184.94 is 180.17% of the 2015 FPL, the Marketplace properly found you, your spouse, [REDACTED] and [REDACTED] to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the April 21, 2015 eligibility determination properly stated that, based on the information you provided, you, your spouse, [REDACTED] and [REDACTED] were eligible for up to \$822.00 per month in APTC, eligible for CSR, and ineligible for Medicaid, it is correct and is AFFIRMED.

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, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$3,267.15 per month.

In order to establish whether you, your spouse, and your two children met the financial requirements to be eligible for Medicaid, the Hearing Officer directed you to provide all earnings statements you, your spouse and [REDACTED] received

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during the month of April 2015. You provided credible evidence that you received a total of \$2,287.06 during April 2015. You testified that your spouse is paid by her employer once every two weeks; you provided only one earning statement issued to her on April 24, 2015. Since we have been provided information which is insufficient to assess your household's monthly income, we cannot return to the Marketplace for a redetermination of your household's eligible for Medicaid on a monthly basis.

However, your Marketplace reflects that your account has since been updated and the household members' eligibility redetermined. This decision does not affect any subsequent eligibility redeterminations.

Decision

The April 21, 2015 eligibility determination notice is AFFIRMED.

This decision does not affect any subsequent eligibility redeterminations made by the Marketplace.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

You, your spouse, [REDACTED] and [REDACTED] remain eligible for up to \$822.00 per month of APTC and remain eligible for CSR.

You, your spouse, [REDACTED] and [REDACTED] 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.

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

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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 21, 2015 eligibility determination notice is AFFIRMED.

You, your spouse, [REDACTED] and [REDACTED] remain eligible for up to \$822.00 per month of APTC and remain eligible for CSR.

You, your spouse, [REDACTED] and [REDACTED] are ineligible for Medicaid.

This decision does not affect any subsequent eligibility redeterminations made by the Marketplace.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

