



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: AP000000002632

[REDACTED]

Dear Ms. [REDACTED],

On June 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 23, 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).

This page intentionally left blank.

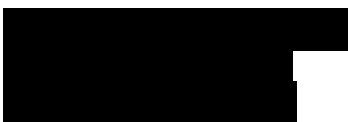


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002632



Issues

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

Did the Marketplace properly determine that you were eligible to receive up to \$129.00 per month in advance premium tax credits, effective June 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions, effective June 1, 2015?

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

Procedural History

On April 23, 2015, the Marketplace issued an eligibility redetermination notice based on your April 22, 2015 application. It stated, in relevant part, that you were eligible to receive an advance premium tax credit (APTC) of up to \$129.00 per month; eligible for cost-sharing reductions (CSR); and ineligible for Medicaid. Your eligibility was effective as of June 1, 2015. You were also found eligible to enroll in a health plan outside the open enrollment period.

On April 28, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the April 23, 2015 eligibility determination insofar as you were seeking Medicaid or, in the alternative, additional APTC.

On June 5, 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 spouse's earnings statements reflecting payments received from his two positions during month of April 2015, and (2) documentation reflecting your earnings from your self-employment through [REDACTED] for the month of 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.

That same day, you provided a 39 page facsimile to the Appeals Unit through which included: (1) a Notice of Decision issued by the Onondaga County Department of Social Services (DSS) on April 29, 2015, (2) a mortgage statement issued by [REDACTED] issued May 5, 2015, (3) a water usage receipt issued by [REDACTED] reflecting a payment made on April 20, 2015, (4) multiple earnings statements issued to your spouse by [REDACTED] between March 13, 2015 and June 5, 2015, (5) multiple earnings statements issued to your spouse by [REDACTED] from April 3, 2015 to May 15, 2015, (6) several statements issued by [REDACTED], (7) copies of your family's respective insurance cards, (8) copies of your and your spouse's Schedule A and Schedule C excerpted from 2013 and 2014 tax returns, (9) earnings statements issued to you by [REDACTED] during April 2015, and (10) a completed self-employment worksheet for the period from February 9, 2015 to May 8, 2015.

These documents were made part of the record, which was closed on June 5, 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 with a tax filing status of married filing jointly and will claim your two children as dependents on that tax return.
- 2) You are seeking insurance for only yourself since your son and your daughter were enrolled in Child Health Plus and Medicaid, respectively.
- 3) The application that was submitted on April 22, 2015 listed annual household income of \$39,468.00, consisting solely of your spouse's income from two positions, including: (1) the \$17.00 per hour for 40 hours per week that your spouse expects to receive from his employment with [REDACTED] and (2) \$158.00 your spouse expects to receive

- from his employment with [REDACTED] You testified that this amount provided in your application was correct.
- 4) Your application states that you will not be taking any deductions on your 2015 tax return.
 - 5) Your application states that you live in Onondaga County, New York.
 - 6) On June 5, 2015, you provided earnings statements issued to your spouse by [REDACTED], reflecting that he received (1) \$1,360.00 on April 10, 2015 and (2) \$1,360.00 on April 24, 2015.
 - 7) On June 5, 2015, you provided earnings statements issued to your spouse by [REDACTED] reflecting that he received (1) \$357.50 on April 3, 2015 and (2) \$400.00 on April 17, 2015.
 - 8) On June 5, 2015, you provided a mid-month earnings statement issue by [REDACTED] reflecting that your gross approximately \$63.45 in gross commissions during the month of April 2015.
 - 9) You testified that the silver-level insurance plan you selected for coverage beginning June 1, 2015, even after being found eligible for \$129.00 per month in tax credits, was unaffordable. You further testified that you did not make any payments to enroll in that silver-level plan.
 - 10) You testified that based on your various bills that you receive during a given month, health insurance is generally unaffordable through the Marketplace, and you were seeking Medicaid, or in the alternative, a greater amount of tax credits.

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)).

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 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).

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).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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)).

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 \$129.00 per month.

The application that was submitted on April 22, 2015 listed an annual household income of \$39,468.00, which consisted of (1) \$35,360.00 (\$17.00 per hour x 40 hours per week x 52 weeks), your spouse expects to receive from his employment with [REDACTED]. and (2) \$4,108.00 (\$158.00 x 26 weeks) your spouse expects to receive from his employment with [REDACTED]. The eligibility determination relied upon that information.

You are in a four-person household. You expect to file your 2015 income taxes as married filing jointly and will claim your son and daughter as dependents on that tax return.

You reside in Onondaga County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$285.13 per month.

An annual income of \$39,468.00 is 165.48% of the 2014 FPL for a four-person household. At 165.48% of the FPL, the expected contribution to the cost of the health insurance premium is 4.74% of income, or \$155.90 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 (\$285.13 per month) minus your expected contribution (\$155.90 per month), which equals \$129.23 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$129.00 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 \$39,468.00 is 165.48% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

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 \$24,250.00 for a four person household. Since \$39,468.00 is 162.75% 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.

Since the April 23, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$129.00 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.

The credible evidence of record reflects that between his two positions, he received a total of \$3,477.50 in earned income during the month of your application, which was April 2015. The record reflects that you also received a nominal amount of income from your self-employment through [REDACTED]

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 \$2,788.75 per month. Since your income was \$3,477.50 for April 2015, you did not qualify for Medicaid on the basis of monthly income when you submitted your revised application on April 22, 2015.

Decision

The April 23, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$129.00 per month.

You remain eligible for cost-sharing reductions, provided you enroll in a silver-level plan.

You 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 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 23, 2015 eligibility determination is **AFFIRMED**.

You remain eligible for an advance premium tax credit of up to \$129.00 per month.

You remain eligible for cost-sharing reductions, provided you enroll in a silver-level plan.

You are ineligible for Medicaid.

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:

