



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

Notice of Decision

Decision Date: July 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002651

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 30, 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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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 son were eligible to receive up to \$207.00 per month in advance premium tax credit, effective June 1, 2015?

Did the Marketplace properly determine that you and your son were not eligible for cost-sharing reductions?

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

Procedural History

On April 29, 2015, the Marketplace received several modifications to your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the last application, stating you and your son were eligible to receive up to \$207.00 in advance premium tax credits (APTC) per month.

Also on April 29, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to the amount of financial assistance you and your son were eligible for.

On April 30, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the April 29, 2015 application that stated you and your son were eligible to receive up to \$207.00 per month in APTC,

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effective June 1, 2015. You were not eligible for cost-sharing reductions or for Medicaid because your income was over the allowable limit for those programs.

On June 10, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

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 claim your son as a dependent on that tax return.
- 2) The application that was submitted on April 29, 2015 listed household income of \$55,056.00, consisting of \$30,000.00 you earn from your employment and \$25,056.00 your spouse receives in Social Security benefits. You testified that this amount was correct.
- 3) Your application states that you will not be taking any deductions on your 2015 tax return.
- 4) Your application states that you live in Orange 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 (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 poverty line (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 the 2015 tax year is set by federal law at 2.01% to 9.56% of annual household income (26 USC § 36B(b)(3)(A)).

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 \$19,790.00 for a three-person household (78 Fed. Reg. 5182, 5183).

For annual household income in the range of at least 250% but less than 300% of the 2015 FPL, the expected contribution for the 2015 tax year is between 8.10% and 9.56% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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 plan year coverage is requested and (4) is enrolled in a silver-level QHP (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)).

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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 \$20,090.00 for a three-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).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or 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 QHP (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 that you and your son were eligible for an advance premium tax credit (APTC) of up to \$207.00 per month.

The application that was submitted on April 29, 2015 listed a household income of \$55,056.00 and the eligibility determination relied upon that information.

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

You reside in Orange County, where the second lowest cost silver plan available for a primary subscriber and one dependent through the Marketplace costs \$616.18 per month.

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An annual income of \$55,056.00 is 278.20% of the 2014 federal poverty level (FPL) for a three-person household. At 278.20% of the FPL, the expected contribution to the cost of the health insurance premium is 8.92% of income, or \$409.25 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 (\$616.18 per month) minus your expected contribution (\$409.25 per month), which equals \$206.93 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your son's APTC to be up to \$207.00 per month.

The second issue is whether or not you and your son were properly found not eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$55,056.00 is 278.20% of the 2014 FPL, the Marketplace correctly found you to be not eligible for cost sharing reductions.

The third issue is whether the Marketplace properly determined that you and your son were 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. On the date of your application, the relevant FPL was \$20,090.00 for a three-person household. Since \$55,056.00 is 274.05% of the 2015 FPL, the Marketplace properly found you and your son to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the April 30, 2015 eligibility determination properly stated that, based on the information you provided, you and your son were eligible for APTC of up to \$207.00 per month, not eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for an application.

Decision

The April 30, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: July 8, 2015

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How this Decision Affects Your Eligibility

You and your son remain eligible for \$207.00 per month in advance premium tax credit.

You and your son are not eligible for cost-sharing reductions.

You and your son are not eligible 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:
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- By fax: 1-855-900-5557

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Summary

The April 30, 2015 eligibility determination notice is AFFIRMED.

You and your son remain eligible for \$207.00 per month in advance premium tax credit.

You and your son are not eligible for cost-sharing reductions.

You and your son are not eligible for Medicaid.

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]