



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: AP000000002759

[REDACTED]

Dear [REDACTED],

On June 17, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 1, 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

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002759

[REDACTED]

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 \$248.00 per month in advance premium tax credit, 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 30, 2015, your application for health insurance through the Marketplace was updated.

On May 1, 2015, the Marketplace issued a notice of eligibility determination stating that you are eligible to receive an advance premium tax credit of up to \$248.00 per month and, if you select a silver level plan, cost sharing reductions; effective June 1, 2015. The notice further stated that you are not eligible for Medicaid because the household income you provided was over the allowable income limit. This determination was based on an expected household income of \$23,400.00.

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On May 6, 2015, you contacted the Marketplace's Account Review Unit and appealed that determination insofar as it did not approve an advance premium tax credit of more than \$248.00 per month, and it did not determine you eligible for Medicaid coverage.

On June 10, 2015, you were scheduled for a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, you requested to adjourn your hearing. The adjournment was granted and your hearing was rescheduled.

On June 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You were placed under oath and waived your right to notice of the hearing. The record was developed during the hearing and left open until July 2, 2015, to provide you an opportunity to submit supporting evidence.

On June 19, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a copy of your non-consecutive paystubs between February 27, 2015 and June 19, 2015. These documents were collectively marked as Appellant's Exhibit 3 and incorporated into the record.

On July 3, 2015, the Marketplace's Appeals Unit received your additional supporting evidence, which included a copy of your paystubs issued on June 26, 2015, and July 3, 2015. Although these documents were received after the record closed, the Marketplace's Appeals Unit accepted these documents, which were collectively marked as Appellant's Exhibit 4 and incorporated into the record. The record was closed on July 3, 2015.

Findings of Fact

- 1) You testified, and the record reflects, that you expect to file your 2015 federal income tax return with a tax filing status of single. You further testified that you do not expect to claim anyone as a dependent on that tax return.
- 2) The application that was submitted on April 30, 2015 listed an annual household income of \$23,400.00. You testified that this amount is not an accurate reflection of your expected income because your income fluctuates and your hourly earning rate has recently decreased from \$20.00 per hour to \$10.00 per hour.
- 3) Prior to the originally scheduled hearing you submitted copies of consecutive paystubs between January 23, 2015 and February 12, 2015. You earned \$648.02 on January 23, 2015; \$579.70 on January 30, 2015; \$931.02 on February 6, 2015; and \$470.40 on February 13, 2015 before taxes were deducted (Appellant's Exhibit 1).

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- 4) Prior to the adjourned hearing, you submitted a copy of your paystubs between May 15, 2015 and June 12, 2015. You earned \$151.00 on May 15, 2015; \$843.68 on May 22, 2015; \$830.00 on May 29, 2015; \$335.02 on June 5, 2015; and \$326.62 on June 12, 2015 before taxes were deducted (Appellant's Exhibit 2).
- 5) You provided evidence that you earned \$464.00 on April 3, 2015; \$464.40 on April 10, 2015; \$460.40 on April 17, 2015; \$461.80 on April 24, 2015; \$469.60 on May 1, 2015; \$389.60 on May 8, 2015; \$328.02 on June 19, 2015; and \$280.42 on June 26, 2015 before taxes were deducted (Appellant's Exhibits 3-4).
- 6) You testified, and the record reflects, that you will not be taking any deductions on your 2015 federal income tax return.
- 7) You testified, and the record reflects, that you live in Queens County, New York.
- 8) You testified that you cannot afford a health insurance premium after paying your necessary living expenses.

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 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

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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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% 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)).

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 \$11,770.00 for a one-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), 45 CFR § 155.625).

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 \$248.00 per month.

The application that was submitted on April 30, 2015 listed an annual household income of \$23,400.00 and the eligibility determination relied upon that information.

You expect to file your 2015 federal income taxes as single and will not claim any dependents on that tax return; therefore, you are in a one-person household.

You reside in Queens County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$23,400.00 is 200.51% of the 2014 federal poverty level (FPL) for a one-person household. At 200.51% of the FPL, the expected contribution to the cost of the health insurance premium is 6.36% of income, or \$123.98 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 (\$371.75 per month) minus your expected contribution (\$123.98 per month), which equals \$247.77 per month. Therefore, rounding to the nearest

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dollar, the Marketplace correctly determined you to be eligible for up to \$248.00 per month in APTC.

The second issue is whether you were properly found 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 \$23,400.00 is 200.51% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

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 \$11,770.00 for a one-person household. Since \$23,400.00 is 198.81% 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 May 1, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$248.00 per month in APTC, eligible for cost sharing reductions, and ineligible for Medicaid, it is correct and is **AFFIRMED**.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To qualify for Medicaid, you must meet the non-financial criteria and have an income no greater than 138% of the applicable FPL, which is \$1,354.00 per month.

There is no contention, and there is no indication in the record, that you fail to meet any of the non-financial criteria for Medicaid eligibility.

You provided evidence that for the month of April 2015, the month in which your application was submitted, you earned \$464.00 on April 3, 2015; \$464.40 on April 10, 2015; \$460.40 on April 17, 2015; \$461.80 on April 24, 2015. Therefore, you earned \$1,850.60 during the month of April 2015.

Since your income of \$1,850.60 was greater than the \$1,354.00 Medicaid limit for April 2015, you did not qualify for Medicaid coverage on the basis of monthly income during April 2015.

However, you testified and provided evidence that your 2015 expected annual household income no longer reflects your current household income situation.

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You provided evidence that for the month of June 2015, your monthly income decreased and you earned \$335.02 on June 5, 2015; \$326.62 on June 12, 2015; \$328.02 on June 19, 2015; and \$280.42 on June 26, 2015. Therefore, you earned \$1,270.08 during the month of June 2015.

Based on the evidence provided after the hearing, your case is returned to the Marketplace to redetermine your eligibility for financial assistance based on a one-person household and a household income of \$1,270.08 for the month of June 2015.

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 May 1, 2015 eligibility determination is AFFIRMED.

Your case is returned to the Marketplace to redetermine your eligibility for financial assistance based on a one-person household and a June 2015 income of \$1,270.08.

Effective Date of this Decision: August 25, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$248.00 per month in APTC.

You remain eligible for cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on a one-person household and a June 2015 income of \$1,270.08.

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

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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 May 1, 2015 eligibility determination notice is **AFFIRMED**.

You remain eligible for up to \$248.00 per month in APTC.

You remain eligible for cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on a one-person household and a June 2015 income of \$1,270.08.

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:

