



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

Notice of Decision

Decision Date: September 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002944

[REDACTED]

Dear [REDACTED],

On June 30, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 16, 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 were eligible to receive an advance premium tax credit of up to \$300.00 per month, 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 May 16, 2015, the Marketplace issued a notice of eligibility determination which stated that you were eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$300.00 per month; and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). This eligibility was effective June 1, 2015. The notice also stated that you were not eligible for Medicaid. This determination was based, in part, on an annual household income of \$18,876.00. You appealed this eligibility determination.

On June 30, 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 all earning statements you received from

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your employer during the month of May 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. No documents were received from you by July 15, 2015.

The record was closed on July 15, 2015.

Findings of Fact

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

- 1) You testified that you are unmarried and live alone.
- 2) You testified that you are seeking health insurance coverage only for yourself through your Marketplace account.
- 3) You testified, and your application indicates, that you expect to file your 2015 taxes as "single" and claim no dependents.
- 4) You live in Bronx County, New York.
- 5) On May 1, 2015, you provided copies of your earnings statements issued by your employer, [REDACTED] reflecting that you received (1) \$732.38 on March 13, 2015, (2) \$710.82 on March 27, 2015, (3) \$672.32 on April 10, 2015 and (4) \$730.62 on April 24, 2015.
- 6) In your May 15, 2015 application, you attested that you are employed by [REDACTED] and are compensated at a rate of \$11.00 per hour, and that you typically work 33 hours per week. You testified during the hearing that at the time you submitted your application, this was an accurate representation of your income for 2015.
- 7) You testified that you are paid weekly by your employer, and that your income fluctuates based on the number of hours you work during any given pay period. You further testified that your hours have decreased to approximately 20 to 28 per week as a result of your employer's budgeting issues.
- 8) You testified that you are paid once every two weeks by your employer.
- 9) You testified that the premium amounts for plans available through the Marketplace, even after applying the maximum tax credit of \$300.00 per month, are unaffordable to you based on your current income and

living expenses. You further testified that you were previously eligible for Medicaid and would like to be eligible for Medicaid.

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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 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-3(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).

Legal Analysis

The first issue is whether the Marketplace properly determined that you are eligible to receive an advance premium tax credit (APTC) of up to \$300.00 per month.

In the application that was submitted on May 15, 2015, you attested to an expected yearly income of \$18,876.00, and the eligibility determination relied upon that information.

According to the record, you are the only person in your tax household since you expect to file a 2015 U.S. Income Tax return, file as “single” and claim no dependents.

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

An annual household income of \$18,876.00 is 161.75% of the 2014 FPL for a one-person household. At 161.75% of the FPL, the expected contribution to the cost of the health insurance premium is 4.57% of income, or \$71.81 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$371.75 per month) minus your expected contribution (\$71.81 per month), which equals \$299.94 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly found you eligible for an APTC of up to \$300.00 per month.

The second issue under appeal is whether the Marketplace properly determined that you are eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 161.75% of the 2014 FPL, you were correctly found to be eligible for CSR.

The final issue under appeal is whether the Marketplace properly determined that you are 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 \$11,770.00 for a one-person household. Since \$18,876.00 is 160.37% 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.

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 \$1,353.55 per month.

The credible evidence of record indicates that you received at least \$1,443.20 and \$1,402.94 during the months of March and April, respectively. Since your income during those months was greater than the monthly limit for that program, you were not eligible for Medicaid during either March or April 2015.

Since the May 16, 2015 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for an APTC up to \$300.00 per month, eligible for CSR, but ineligible for Medicaid, it is correct and is AFFIRMED.

You were directed by the Hearing Officer to provide copies of all earning statements issued to you by your employer during May 2015. Since you did not provide the earnings statements as directed by the Hearing Officer, the record does not support returning your case to the Marketplace for redetermination based on your income for that month.

Decision

The May 16, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: September 14, 2015

How this Decision Affects Your Eligibility

You continue to be eligible to receive up to \$300.00 per month of APTC and, if you selected a silver-level plan, CSR.

You 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 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).

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 16, 2015 eligibility determination is AFFIRMED.

You continue to be eligible to receive up to \$300.00 per month of APTC and, if you selected a silver-level plan, CSR.

You 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:

