



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: AP000000003068

[REDACTED]

Dear [REDACTED],

On July 2, 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 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: September 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003068



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 spouse were eligible to receive up to \$487.00 per month in advance premium tax credits, effective June 1, 2015?

Did the Marketplace properly determine that you and your spouse were eligible for cost-sharing reductions?

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

Procedural History

On April 23, 2015, the Marketplace issued a notice of eligibility determination, stating that you and your spouse were eligible to share an advance premium tax credit of up to \$487.00 per month and, if you selected a silver level plan, cost-sharing reductions. The notice further stated that you and your spouse were not eligible for Medicaid because the household income you provided was over the allowable income limit. This determination was based on a household income of \$53,676.04

On May 13, 2015, the Marketplace received your written request to appeal that determination as it related to the household income used to calculate your eligibility for financial assistance.

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).

Prior to the scheduled hearing, you provided documentary evidence, which included a copy of your self-employment invoices issued between January and March 2015 and proof of your spouse's income for the month of March 2015. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record.

On July 2, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence.

On July 2, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a copy of your additional invoices issued in March 2015. These documents were collectively marked as Appellant's Exhibit 2 and incorporated into the record. The record was closed on July 2, 2015.

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 two children as dependents on that tax return.
- 2) The application that was submitted on April 22, 2015 listed annual household income of \$53,676.04, consisting of \$9,956.04 you expect to earn from your self-employment income, \$41,600.00 your spouse expects to earn from his employment, \$3,120.00 in additional business income, and \$1,000.00 in student loan interest deductions. You testified that this amount is not an accurate reflection of your individual expected income for 2015 because it was based on your 2014 federal income tax return.
- 3) You testified that your spouse's income is steady. You provided evidence that he earns \$800.00 per week before taxes are deducted (Appellant's Exhibit 1). You further testified that your spouse's income as listed in the April 22, 2015 application is accurate.
- 4) You testified that you are self-employed and do not expect to earn the same amount as in 2014. You further testified, and provided evidence that your income fluctuates monthly.
- 5) You provided evidence that for your first quarter earnings, you billed \$150.00 for your services on January 9, 2015; \$150.00 for your services on January 12, 2015; \$70.00 for your services on January 21, 2015; \$100.00 for your services on January 22, 2015; \$150.00 for your services on February 3, 2015; \$150.00 for additional services on February 3, 2015; \$150.00 for services on February 17, 2015; \$150.00 for services on March

13, 2015; \$150.00 for services on March 17, 2015; and \$125.00 for services on March 19, 2015 (Appellant's Exhibits 1-2). You testified that these invoices reflected your total earnings between January and March 2015. You further testified that from January 2015 to the scheduled hearing, you earned approximately \$2,015.00.

- 6) The April 22, 2015 application states that your spouse expects to take a student loan interest deduction in the amount of \$1,000.00 on your 2015 tax return. At the hearing, you testified that you do not know whether you will take any deductions on your 2015 tax return.
- 7) You and your spouse are seeking health insurance through the Marketplace.
- 8) You testified, and your application states, that you live in Herkimer County.

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

- 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, 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 \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse were eligible for an advance premium tax credit (APTC) of up to \$487.00 per month.

The application that was submitted on April 22, 2015 listed an annual household income of \$53,676.04 and the eligibility determination relied upon that information.

You and your spouse in a four-person household. You expect to file you 2015 income taxes as married filing jointly and will claim your two children as dependents on that tax return.

You reside in Herkimer County, where the second lowest cost silver plan available for a couple through the Marketplace costs \$809.64 per month.

An annual income of \$53,676.04 is 225.06% of the 2014 FPL for a four-person household. At 225.06% of the FPL, the expected contribution to the cost of the health insurance premium is 7.22% of income, or \$322.95 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 (\$809.64 per month) minus your expected contribution (\$322.95 per month), which equals \$486.69 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your spouse to be eligible for up to \$487.00 per month in APTC.

The second issue is whether you and your spouse 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 \$53,676.04 is 225.06% 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 and your spouse 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 \$53,676.04 is 221.34% of the 2015 FPL, the Marketplace properly found you and your spouse 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 and your spouse were eligible for up to \$487.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained on your application did not reflect your individual expected income situation for the 2015 tax year.

You provided evidence that your income fluctuates monthly but, for your first quarter earnings between the months of January and March 2015, you issued invoices for a total amount of \$1,345.00. Therefore, based on your first quarter's earnings, you individually expect to earn approximately \$5,380.00 for the 2015 tax year, instead of the \$9,956.04 you declared on your application.

You also testified that your spouse's income of \$43,720.00, as listed in the April 22, 2015 application, is an accurate reflection of his expected income for 2015.

Therefore, the credible evidence of record indicates that you expect a household income of approximately \$49,100.00 for the 2015 tax year. Therefore, your case is returned to the Marketplace to redetermine you and your spouse's eligibility for financial assistance based on a four-person household in Herkimer County, with an expected household income of \$49,100.00.

Decision

The April 23, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine you and your spouse's eligibility for financial assistance based on a four-person household in Herkimer County, with an expected household income of \$49,100.00.

Effective Date of this Decision: September 14, 2015

How this Decision Affects Your Eligibility

This is not a final determination of your eligibility for financial assistance.

It returns your case to the Marketplace for a redetermination of you and your spouse's eligibility for financial assistance based on a four-person household, an expected annual income of \$49,100.00, and a county residence of Herkimer County.

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 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 notice is **AFFIRMED**.

This is not a final determination of your eligibility for financial assistance.

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).

Your case is RETURNED to the Marketplace to redetermine you and your spouse's eligibility for financial assistance based on a four-person household in Herkimer County, with an expected household income of \$49,100.00.

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:

