



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

Notice of Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003239

[REDACTED]

Dear [REDACTED],

On July 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 2, 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).

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Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003239

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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 on June 1, 2015 that you were eligible to receive up to \$181.00 per month in advance premium tax credits, effective July 1, 2015?

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

Did the Marketplace properly determine that you were not eligible for Medicaid as of June 1, 2015?

Procedural History

According to your Marketplace account, you had health coverage under Medicaid through the Marketplace from March 1, 2014 to March 31, 2014, and then with MVP Health Plan, Inc., a Medicaid Managed Care (MMC) plan, from April 1, 2014 to February 28, 2015.

On January 8, 2015, the Marketplace issued a renewal notice informing you that it was time to renew your health coverage for 2015. The notice stated you could not be enrolled in your current health plan and needed to select a different plan if you wanted coverage in 2015. The notice also contained an eligibility determination that stated you now qualify for an advance premium tax credit (APTC) of up to \$239.82 per month and for cost sharing reductions (CSR), effective March 1, 2015.

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On February 18, 2015, the Marketplace issued a disenrollment notice that your insurance coverage with MVP Health Plan, Inc. will end effective February 28, 2015.

On June 1, 2015, your Marketplace application was updated and the Marketplace made a preliminary eligibility determination that, based on a reported household income of \$23,400.00, you were eligible to receive up to \$181.00 per month of APTC and eligible for CSR, effective July 1, 2015.

That same day, you spoke with a representative from the Marketplace's Account Review Unit and requested an appeal of the preliminary eligibility determination insofar as you cannot afford to pay for health insurance and you want your coverage to continue with your MMC plan.

On June 2, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the June 1, 2015 preliminary eligibility redetermination.

On July 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit your 2014 tax return (Form 1040).

As of August 4, 2015, the Appeals Unit had not received a fax from you and no documents had been uploaded to your Marketplace account. Therefore, the record was closed that same day and this Decision is based on the evidence adduced at hearing and available in your Marketplace account as of the date of the hearing.

Findings of Fact

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

- 1) You testified that, at present, you expected to file your 2015 taxes with a tax filing status of Single. You are uncertain if you will be claiming your nineteen-year-old son as a dependent on that tax return, which you may decide to do at a later date.
- 2) You are seeking insurance only for yourself.
- 3) The application that was updated on June 1, 2015 listed annual household income of \$23,400.00, consisting of \$450.00 you earn weekly from your employment. You testified that your gross weekly earnings are more likely around \$500.00 and your weekly take-home pay is \$384.00.

- 4) Your application states that you will not be taking any deductions on your 2015 tax return, which you confirmed at hearing is accurate.
- 5) Your application states that you reside in Monroe County, New York.

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 \$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).

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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 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).

People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan for 12 months, with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

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Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

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)).

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

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$181.00 per month.

The application that was updated on June 1, 2015 listed an annual household income of \$23,400.00 and the eligibility determination relied upon that information.

At the time of your application, you indicated that you expect to file your 2015 income taxes as single and will not claim any dependent on that tax return. Therefore, you are in a one-person household.

You reside in Monroe County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$305.04 per month.

An annual income of \$23,400.00 is 200.51% of the 2014 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 (\$305.04 per month) minus your expected contribution (\$123.98 per month), which equals \$181.06 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$181.00 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.

The same is true based on a monthly income. Your annual income of \$23,400.00 equals a monthly income of \$1,950.00. To be eligible for Medicaid, your monthly adjusted gross income would have to be at or below 138% of the FPL for a one-person household, which has a maximum allowable monthly income limit of \$1354.00 for a one-

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person household. Since your monthly income of \$1,950.00 exceeds the maximum allowable income limit of \$1,354.00, you are not eligible for Medicaid on a monthly income basis either.

Since the June 2, 2015 notice of eligibility determination properly stated that, based on the information you provided in your updated application, you were eligible for up to \$181.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it was correct when made and is AFFIRMED.

Notwithstanding, you testified that even with the APTC of \$181.00 monthly, you cannot afford to pay a monthly premium of \$123.98. This may qualify as a hardship exemption, which may exempt you from having to pay a penalty to the IRS for not having health insurance in 2015. If you wish to be considered for a hardship exemption, you can contact HHS at its Federal website (www.healthcare.gov) for direction.

You also testified that you might decide later to choose to claim your nineteen-year-old son as a dependent on your 2015 tax return and stated that you understood at the hearing that you could get advice from a tax professional in this regard. If you decide that you are going to be claiming your son as a dependent, please contact the Marketplace at the number below to report the change in your tax filing status and the number of people in your tax household. The Marketplace will then redetermine your eligibility for financial assistance based on your change in tax filing status and household size and issue a notice of eligibility redetermination.

Decision

The June 2, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 15, 2015

How this Decision Affects Your Eligibility

You currently remain eligible for up to \$181.00 per month of APTC and for cost sharing reductions.

You remain 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

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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 June 2, 2015 eligibility determination notice is **AFFIRMED**

You remain eligible for up to \$181.00 per month of APTC and for cost sharing reductions.

You remain ineligible for Medicaid.

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

Legal Authority

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A Copy of this Decision Has Been Provided To:

