



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

Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003433

[REDACTED]

Dear [REDACTED],

On July 22, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s June 12, 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 45 Code of Federal Regulations (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: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003433

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that your spouse, [REDACTED], was conditionally eligible to receive \$0.00 per month in advance premium tax credits, as well as for cost-sharing reductions, effective July 1, 2015?

Did the Marketplace properly determine that your spouse was not eligible for Medicaid?

Procedural History

The Marketplace received your initial application for health insurance on June 11, 2015 in which you attested to an expected yearly income of \$48,000.00. In response to your application, the Marketplace prepared a preliminary eligibility determination which stated that your spouse, [REDACTED], was conditionally eligible to receive an advance premium tax credit (APTC) of \$0.00 per month beginning July 1, 2015. This preliminary determination also requested that you provide additional documentation for your spouse's eligibility to be finalized.

Also on June 11, 2015, you spoke with the Marketplace's Account Review Unit and appealed that preliminary determination insofar as your spouse was not found eligible for Medicaid.

On June 12, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the June 11, 2015 application, stating that

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 spouse was conditionally eligible to enroll in a qualified health plan (QHP); conditionally eligible to receive an advance premium tax credit (APTC) of up to \$0.00 per month; conditionally eligible for cost-sharing reductions provided you select a silver-level plan; and ineligible for Medicaid. This notice also requested that you provide documentation confirming your spouse's immigration status and Social Security number before September 9, 2015. This determination was effective July 1, 2015.

On June 15, 2015, the Marketplace received a revised application in which you attested to an expected yearly income of \$23,576.00.

On June 19, 2015, the Marketplace issued an eligibility redetermination notice stating that your spouse was conditionally eligible for Medicaid, effective June 1, 2015. This notice requested that you provide documentation confirming your spouse's immigration status and Social Security number before September 13, 2015, and further requested that you provide documentation confirming income before June 30, 2015.

On July 17, 2015, the Marketplace received a further revised application.

On July 17, 2015, the Marketplace issued an eligibility redetermination notice stating, in relevant part, that your spouse was eligible to enroll in a QHP at full cost beginning September 1, 2015. This notice further stated that your spouse was no longer eligible for Medicaid, Child Health Plus, or APTC because you had not provided income documentation in the time required. The notice finally stated that your spouse was not eligible to receive APTC because you failed to comply with Medicaid rules and not eligible for CSR because she was ineligible for APTC.

On July 19, 2015, the Marketplace issued a disenrollment notice confirming that your spouse's Medicaid fee-for-service coverage had been discontinued as of August 31, 2015 because she was no longer eligible to remain in that program.

On July 22, 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: (1) letter from DHS reflecting and application for spouse's VISA has been received and is being processed, and (2) all earning statements received by Appellant during June 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.

On July 27, 2015, you provided the above referenced documents to the Appeals Unit through via facsimile.

The record was closed on July 27, 2015.

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).

Findings of Fact

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

- 1) You testified, and your application reflects, that your spouse is pregnant. The due date for the child is February 16, 2016.
- 2) You testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly, but do not anticipate claiming any dependents until the 2016 tax year, after your baby is born.
- 3) You are seeking insurance for your spouse only.
- 4) The application that was submitted on June 11, 2015 listed annual household income of \$48,000.00, consisting solely of income you expect to receive from your employer, [REDACTED]
- 5) You testified that you are paid once every two weeks by your employer.
- 6) You testified that your spouse cannot work because she is in the process of seeking a visa from DHS.
- 7) You testified that your spouse has also not been issued a Social Security number because she is in the process of seeking a visa from DHS.
- 8) Your application states that you will not be taking any deductions on your 2015 tax return.
- 9) Your application states that you live in Kings County.
- 10) On July 27, 2015, you provided a copy of a letter issued by DHS to your spouse, dated June 8, 2015, confirming that your spouse's application to register permanent residence or adjust status had been received and was in process.
- 11) On July 27, 2015, you provided copies of earnings statements issued to you by your employer reflecting your receipt of: (1) \$2,708.50 on June 5, 2015 and (2) \$1,500.00 on June 19, 2015.

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 \$15,730 for a two-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution is 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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 \$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).

Legal Analysis

The first issue is whether the Marketplace properly determined that your spouse was conditionally eligible for an advance premium tax credit (APTC) of up to \$0.00 per month.

The application that was submitted on June 11, 2015 listed an annual household income of \$48,000.00, which was based on your attestation that you received \$2,000.00 once every two weeks from your employer. The eligibility determination relied on that information.

Your spouse is in a two-person household for purposes of review of APTC and cost-sharing reductions (CSR) eligibility. However, since your spouse is pregnant, she is considered to be in a three-person household for purposes of determining Medicaid eligibility.

You expect to file your 2015 income taxes as married filing jointly, and will not be claiming a dependent for this tax year.

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

An annual income of \$48,000.00 is 305.15% of the 2014 FPL for a two-person household. At 305.15% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$382.40 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 (\$382.40 per month). Since your expected monthly contribution exceeds the cost of the second lowest cost silver plan available for an individual in your county, the Marketplace correctly determined your spouse to be conditionally eligible for \$0.00 per month in APTC at this time.

The second issue is whether your spouse was properly found ineligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$48,000.00 is 305.15% of the applicable FPL, the Marketplace correctly found you to be ineligible for CSR.

The third issue is whether the Marketplace properly determined that your spouse is 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 \$20,090.00 for a three-person household. Since \$48,000.00 is 238.92% of the 2015 FPL, the Marketplace properly found your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the June 12, 2015 eligibility determination properly stated that, based on the information you provided, your spouse was eligible for up to \$0.00 per month in APTC, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

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).

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 \$2,310.00 per month. Since your income was \$4,208.50 for June 2015, your spouse does not qualify for Medicaid on the basis of monthly income when you submitted your initial application.

However, your case is RETURNED to the Marketplace based solely on the receipt of the letter from DHS reflecting that your spouse has submitted an application seeking permanent residence to satisfy the Marketplace's request for documentation confirming immigration status.

Decision

The June 12, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace based solely on the receipt of the letter issue by DHS reflecting that your spouse has submitted an application seeking permanent residence to satisfy the Marketplace's request for documentation confirming immigration status.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

Your spouse remains conditionally eligible for an advance premium tax credit of up to \$0.00 at this time, and eligible for cost-sharing reductions.

Your spouse is 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.

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).

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 12, 2015 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace based solely on the receipt of the letter issue by DHS reflecting that your spouse has submitted an application seeking permanent residence to satisfy the Marketplace's request for documentation confirming immigration status.

Your spouse remains conditionally eligible for an advance premium tax credit of up to \$0.00 at this time, and eligible for cost-sharing reductions.

Your spouse is not eligible for Medicaid.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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).

A Copy of this Decision Has Been Provided To:

