



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

Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003444

[REDACTED]

Dear [REDACTED]

On July 28, 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 federal regulation 45 CFR § 155.545(b).

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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were eligible to purchase a qualified health plan at full cost and not eligible for financial assistance, effective July 1, 2015?

Procedural History

On May 28, 2015, the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared finding you eligible to purchase a qualified health plan at full cost and over-income for advance premium tax credits and Medicaid.

On June 11, 2015, you updated your Marketplace application and a preliminary determination was prepared with the same outcome as the May 28, 2015 preliminary determination.

That same day, you spoke with a representative from the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your ineligibility for financial assistance.

On June 12, 2015, the Marketplace issued an eligibility determination notice that was consistent with the May 28, 2015 and June 11, 2015 preliminary determinations.

On July 28, 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

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open for up to fifteen days to allow you the opportunity to submit income documents and proof of separation from your employer.

On August 9, 2015, the Appeals Unit received a six-page fax from you consisting of: (1) A copy of the official record of your unemployment benefits payment history; (2) A copy of your last earnings statement, dated July 9, 2015; and (3) A copy of your employer's letter of separation. This six-page fax was made part of the record as "Appellant's Exhibit A."

Since the requested information was received on August 9, 2015, the record was closed that same day.

Findings of Fact

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

- 1) You testified that you are divorced and expect to file your 2015 taxes with a tax filing status of single and will not be claiming any dependents on that tax return.
- 2) You testified and produced a separation letter from your employer that your last day of employment was March 18, 2015 and your medical benefits ended March 31, 2015 (Appellant's Exhibit A, p. 6).
- 3) The application that was submitted on June 11, 2015, listed annual household income of \$49,036.00 and your current monthly income of \$1,710.00. You testified that this amount no longer reflects your current income situation.
- 4) According to your employer separation letter and your testimony, you received a severance package that consisted of 8 weeks of pay at your current salary rate totaling \$8,760.76 less applicable tax withholdings. The separation letter also indicated that your COBRA coverage was paid by the employer through May 31, 2015, which was the last day off the month on which your salary continuation period ceased (Appellant's Exhibit A, p. 6).
- 5) According to your last earnings statement, dated July 9, 2015, your year-to-date gross earnings from your former employment, including your severance pay, was \$34,674.97 (Appellant's Exhibit A, p. 5).
- 6) According to your online official report of unemployment insurance benefits, you are entitled to receive up to \$10,920.00 in unemployment benefits, your waiting week began May 18, 2015, and your weekly benefit amount to which you are entitled is \$420.00 for up to 26 weeks. The benefit release dates are listed as June 1, 2015, June 8, 2015, June 15, 2015, June 22, 2015, and June 29, 2015 for a total amount of \$2,100.00 received that month; and July 16, 2015, July 20,

2015 and July 27, 2015 for a total amount of \$1,260.00 received that month (Appellant's Exhibit A, pp. 1-4).

7) Your application states that you reside in Suffolk 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 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).

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).

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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)).

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

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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)).

Legal Analysis

The issue is whether the Marketplace properly determined that you were not eligible for financial assistance because you were over-income and, therefore, were eligible to purchase a qualified health plan at full cost.

The application that was submitted on June 11, 2015 listed an annual household income of \$49,036.00 and the eligibility determination relied upon that information.

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

An annual income of \$49,036.00 is 420.19% of the 2014 federal poverty level (FPL) of \$11,670.00 for a one-person household. At 420.19% of the FPL, your income is over 400% of the FPL and, therefore, you do not qualify for advanced premium tax credit (APTC).

To be eligible for cost-sharing reductions (CSR), you must first meet the requirements for APTC. Since you are not eligible for APTC, the Marketplace correctly found you to be ineligible for CSR.

Additionally, you were determined 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 \$49,036.00 is 416.62% 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 June 12, 2015 eligibility determination properly stated that, based on the information you provided, you were ineligible for APTC, cost sharing reductions, and Medicaid and eligible to purchase a qualified health plan at full cost through the Marketplace, it is correct and is **AFFIRMED**.

However, you credibly testified and provided documentary proof to show you're your reported income no longer reflects your current income situation. Your actual earnings were \$34,674.97 and you are entitled to up to \$10,920.00 in unemployment insurance benefits. According to your unemployment insurance payment history, you received \$1,260.00 in July 2015. For applicants who are not currently receiving Medicaid, the Marketplace is to determine eligibility using the current month's income received. For this reason, your case is RETURNED to the Marketplace to redetermine your eligibility based on a one-person household and a July 2015 income of \$1,260.00.

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 June 12, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

You are not eligible for financial assistance through advanced premium tax credit, cost-sharing reductions or Medicaid, but are eligible to purchase a qualified health plan at full cost through the Marketplace.

However, based on the evidence adduced at the hearing, your case is RETURNED to the Marketplace to redetermine your eligibility based on a one-person household and a July 2015 monthly income of \$1,260.00.

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

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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
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- By fax: 1-855-900-5557

Summary

The June 12, 2015 eligibility determination notice is AFFIRMED.

You are not eligible for financial assistance through advance premium tax credits, cost-sharing reductions or Medicaid, but are eligible to purchase a qualified health plan at full cost through the Marketplace.

However, based on the evidence adduced at the hearing, your case is RETURNED to the Marketplace to redetermine your eligibility based on a one-person household and a July 2015 monthly income of \$1,260.00.

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.

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A Copy of this Decision Has Been Provided To:

