



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003464

[REDACTED]

Dear [REDACTED],

On July 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 6, 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).

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Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003464

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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 up to \$241.00 per month in advance premium tax credits and, if you select a silver-level qualified health plan, eligible for cost sharing reductions, effective June 1, 2015?

Did the Marketplace properly determine on May 6, 2015 that you were not eligible for Medicaid?

Procedural History

On November 5, 2014, the Marketplace issued a renewal notice that stated, if the information on your application was still accurate, you were re-enrolled in your current health plan for another year and did not need to do anything more. The insurance details in that notice indicated that your insurance provider was MetroPlus Health Plan and you were enrolled in SilverPlus-S2 with Dental and Vision, effective January 1, 2015. The notice also stated that you qualify for a tax credit up to \$296.01 and for cost sharing reductions because federal and state data sources show that your annual income is between \$29,175.00 and \$46,680.00

On December 11, 2014, the Marketplace issued an enrollment notice confirming your enrollment in Healthfirst Silver Leaf with a premium responsibility of \$91.45 after your monthly APTC of \$296.01 was applied.

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On May 5, 2015, your Marketplace application was modified and your monthly income was reported as \$1,500.00, or \$24,000.00 annually.

On May 6, 2015, the Marketplace issued a notice of eligibility redetermination that, based on your reported income of \$24,000.00, you were eligible for up to \$241.00 per month of APTC and, if you enrolled in a silver level health plan, eligible for cost sharing reductions, effective June 1, 2015. The notice further stated that you were not eligible for Medicaid because your income was over the allowable limit for that program.

That same day, the Marketplace issued an enrollment notice confirming your enrollment with Healthfirst Silver Leaf and your monthly premium responsibility of \$146.46 after your monthly APTC of \$241.00 was applied.

On June 12, 2015, you spoke with a representative from the Marketplace's Account Review Unit and requested an appeal of the eligibility determination as it related to the change in the amount of monthly APTC you were entitled to, the amount of cost-sharing reductions, and your ineligibility for other financial assistance programs.

On June 19, 2015, the Marketplace granted your request for aid to continue during the appeal process until September 30, 2015 under your previous APTC eligibility of \$296.01 as determined on November 5, 2014, and as stated in the November 5, 2014 renewal notice. You were also granted a special enrollment period to give you the opportunity to select a different health plan.

On June 20, 2015, the Marketplace issued a notice of eligibility redetermination that you are eligible for up to \$296.01 of advance premium tax credits, according to your previous APTC eligibility as determined on November 5, 2014 and, if you select a silver-level health plan, eligible for cost-sharing reductions.

The notice also indicated that you qualify to select a health plan outside of the open enrollment period and must review your options and confirm your selection by August 18, 2015. The notice instructed that you can do so by signing into your Marketplace online account and clicking on the Plans tab or by calling the Marketplace at 1-855-355-5777.

The notice further informed you that you are obligated to report to the Marketplace any changes that would affect your eligibility for enrollment in health insurance within 30 days of such change and provided you with a list of changes, which included, "if your income changes" or "your household size changes..."

On July 24, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) According to your initial 2014 Marketplace account, you expected to file your 2014 taxes with a tax filing status of Single and would not be claiming an dependents on that return.
- 2) According to your updated Marketplace account, you expect to file your 2015 taxes with a tax filing status of Head of Household with a Qualifying Individual but did not list who you would be claiming as a dependent.
- 3) The application that was submitted on May 5, 2015 listed an annual household income of \$24,000.00 based on the annual 2015 projected earnings you provided. You testified that, while this amount was correct, your monthly income fluctuates from very little income to \$1,500.00 or more due to the nature of your work.
- 4) Your application states that you live in Queens 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

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(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 updated 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).

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)).

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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 updated 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 redetermined that you were eligible for an APTC of up to \$241.00 per month.

The application that was submitted on May 5, 2015 listed an annual household income of \$24,000.00 and the eligibility determination relied upon that information.

For purposes of this analysis, you are in a one-person household based on your initial tax filing status of Single, even though your updated application shows that you expect to file your 2015 tax returns as Head of Household with a Qualifying Individual. This is so, because your initial application shows you are single, you did not report a life changing event such as getting married or gaining a dependent, you did not list any dependents in your updated application, and you did not report any changes in your household's size at the hearing.

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

An annual income of \$24,000.00 is 205.66% of the 2014 FPL for a one-person household. At 205.66% of the FPL, the expected contribution to the cost of the health insurance premium is 6.54% of income, or \$130.78 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 (\$371.75 per month) minus your expected contribution (\$130.78 per month), which equals \$240.97 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$241.00 per month in APTC.

The second issue is whether you were properly found to be 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 \$24,000.00 is 205.66% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

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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 \$24,000.00 is 203.91% 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 May 6, 2015 notice of eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$241.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is **AFFIRMED**.

You testified, however, that your earnings fluctuates from month to month due to the nature of your work and some months you make very little and other months you make around \$1,500.00 or more. Please note that you are obligated to report any changes in income to the Marketplace within 30 days of the change in income that may affect your eligibility for enrollment in a qualified health plan and/or eligibility for financial assistance in any program.

On June 19, 2015, the Marketplace granted you aid to continue based on your previous APTC eligibility through the Marketplace until September 30, 2015. You were also granted a special enrollment period until August 18, 2015 to afford you the opportunity to select and confirm your selection of another qualified health plan.

On June 20, 2015, the Marketplace issued a notice of eligibility redetermination consistent with the June 19, 2015 grants of aid to continue and a special enrollment period. The maximum amount of APTC to which you are entitled to receive per month during the appeal process up to September 30, 2015 remains at \$296.01. However, you were not obligated to take the full amount if you thought it would result in a tax liability when your 2015 tax return is reconciled between your expected and your actual earnings and the amount of APTC you had taken per month throughout the year thus far. If you elected to take less than the maximum monthly APTC, you had to notify the Marketplace of the monthly amount you wish to take.

Additionally, your Marketplace application currently reflects that you plan on filing your 2015 tax return as Head of Household with a Qualifying Individual. If this information is correct and you would like a dependent to be added to your application and, thus, considered as part of your household for purposes of determining your eligibility for financial assistance, please contact the a Marketplace so that your dependent's name and identifying information can be added to your application. If, however, your tax filing status was changed in error, you need to contact the Marketplace to update your application to reflect your correct tax filing status for 2015.

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Decision

The May 6, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

You remain eligible to receive up to \$241.00 per month of APTC and remain eligible for cost sharing reductions provided you select a silver-level qualified health plan.

You remain ineligible for Medicaid.

During the appeal process, the Marketplace provided you aid to continue until September 30, 2015, with a monthly maximum APTC amount of up to \$296.01. You were able to elect to take a part of or the full amount of APTC until that date. If you elected to take less than the maximum monthly APTC, you should have notified the Marketplace of the monthly amount you wished to take.

You were also granted a special enrollment period until August 18, 2015 to afford you the opportunity to select and confirm your selection of another qualified health plan, had you wished to.

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.

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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 6, 2015 eligibility determination notice is **AFFIRMED**.

You remain eligible to receive up to \$241.00 per month of APTC and remain eligible for cost sharing reductions provided you select a silver-level qualified health plan.

You remain ineligible for Medicaid.

During the appeal process, the Marketplace provided you aid to continue until September 30, 2015, with a monthly maximum APTC amount of up to \$296.01. You were able to elect to take a part of or the full amount of APTC until that date. If you elected to take less than the maximum monthly APTC, you should have notified the Marketplace of the monthly amount you wished to take.

You were also granted a special enrollment period until August 18, 2015 to afford you the opportunity to select and confirm your selection of another qualified health plan, had you wished to.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

