



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: AP000000003472

[REDACTED]

Dear [REDACTED],

On August 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 11, 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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NY State of Health Number: [REDACTED]
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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 \$156.00 per month in advance premium tax credit, effective July 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

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

Procedural History

In 2014, you were determined eligible for Medicaid effective June 1, 2014 and had health coverage under Medicaid Fee-For-Service as of that date and were enrolled in a Medicaid Managed Care (MMC) plan as of September 1, 2014.

On May 15, 2015, the Marketplace issued a renewal notice that stated you cannot be enrolled in your current health plan and need to select a different health plan if you want coverage in 2015. The notice further stated that you now qualify for a tax credit up to \$69.49, effective July 1, 2015, because federal and state data sources show your income is between \$16,105.00 and \$46,680.00, which is the income range for tax credits based on your household size. The notice also stated that you cannot receive reductions for out-of-pocket costs because your income is above the allowable limit of \$29,175.00.

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On June 6, 2015, the Marketplace issued a letter stating that more information regarding your income is needed by June 21, 2015.

On June 7, 2015, the Marketplace issued a disenrollment notice that your health coverage with United Healthcare of New York, Inc., an MMC plan, will end effective June 30, 2015.

On June 11, 2015, the Marketplace issued a notice of eligibility redetermination based on updated information it had received from you. The notice stated that you are eligible to receive advance premium tax credits (APTC) up to \$156.00 per month and not eligible for cost sharing reductions or Medicaid because your income is over the allowable income limits for each of these programs.

On June 16, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the June 11, 2015 eligibility determination insofar as you feel the health plans are not affordable even with APTC and you want your health coverage under your MMC plan to continue. You also requested aid to continue in your MMC plan during the appeal process, which the Marketplace granted effective July 1, 2015.

On August 26, 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 student loan interest documents.

On September 8, 2015, the Appeals Unit received a four page fax from you consisting of copies of your monthly student loan statements including the monthly interest amount and the first page of your 2014 Form 1098-E. This four page fax was made part of the record as "Appellant's Exhibit A."

Since the requested documentation was received on September 8, 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 expected to file your 2015 taxes with a tax filing status of Single and will not be claiming any dependents on that tax return.
- 2) The application that was updated on June 10, 2015 listed annual household income of \$30,628.00 in earnings. You testified that this amount was correct.
- 3) Your application states that you will not be taking any deductions on your 2015 tax return but you testified that you began repaying student loans in 2014 and expect to take a deduction for the interest you paid in 2015.

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- 4) According to your 2014 tax return, you paid \$317.00 in student loan interest for part of the year. According to your student loan statements, you paid \$383.52 and \$69.37 as of 8/24/15 on your [REDACTED] loans respectively and \$218.32 on your [REDACTED] as of August 6, 2015, which totals \$671.21, or approximately \$83.90 per month for eight months.
- 5) You testified that you cannot afford to pay for health insurance because your earnings go to pay your student loans as well as essential living expenses such as rent, utilities, and food.
- 6) 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 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).

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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 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 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 \$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).

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Financial eligibility for Medicaid for applicants who *are* currently receiving Medicaid benefits financial eligibility may be based either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year (42 CFR § 435.603(h)(2), *but see* SPA 13-0055-MM3, as approved March 19, 2014).

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)). Living expenses, such as rent and utilities are not an allowable deductions in computing adjusted gross income.

Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; *see also* 26 USC § 62 (17)).

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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$156.00 per month.

The application that was submitted on June 10, 2015 listed an annual household income of \$30,628.00 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.

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 \$30,628.00 is 262.45% of the 2014 FPL for a one-person household. At 262.45% of the FPL, the expected contribution to the cost of the health insurance premium is 8.46% of income, or \$215.93 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 (\$215.93 per month), which equals \$155.82 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$156.00 per month in APTC.

The second issue is whether you were properly found ineligible 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 \$30,628.00 is 262.45% of the applicable FPL, the Marketplace correctly found you to be ineligible 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 \$30,628.00 is 260.22% 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 11, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$156.00 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).

However, you testified and provided documentary proof that you will be taking a student loan interest deduction of approximately \$1,006.00 to reach your 2015 adjusted gross income, which will change your annual income to \$29,622.00. For this reason, your case is RETURNED to the Marketplace to redetermine your eligibility based on a one-person household and an income of \$29,622.00 for an individual residing in Queens County, New York.

You also testified that you cannot afford to pay for health insurance even with APTC because your earnings are used to pay your student loans and for basic essential living needs, which may qualify as a hardship. 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 11, 2015 notice of eligibility determination is AFFIRMED.

However, your case is RETURNED to the Marketplace to redetermine your eligibility based on a one-person household and an income of \$29,622.00 for an individual residing in Queens County, New York.

Effective Date of this Decision: October 15, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$156.00 in APTC.

You are ineligible for cost-sharing reductions.

You are ineligible for Medicaid.

Your case is returned to the Marketplace to redetermine your eligibility using a one-person household and an income of \$29,622.00 for an individual residing in Queens County, New York.

The Marketplace will issue a notice of eligibility redetermination.

If You Disagree with this Decision (Appeal Rights)

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 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 June 11, 2015 notice of eligibility determination is **AFFIRMED**.

You remain eligible for up to \$156.00 in APTC.

You are ineligible for cost-sharing reductions.

You are ineligible for Medicaid.

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Your case is returned to the Marketplace to redetermine your eligibility using a one-person household and an income of \$29,622.00 for an individual residing in Queens County, New York.

The Marketplace will issue a notice of eligibility redetermination.

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:

