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: AP000000003476

[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 16, 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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DEPARTMENT OF HEALTH
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Decision

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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 $215.00 per month in advance premium tax credit and, if you select a silver-level qualified health plan, eligible or cost sharing reductions, effective July 1, 2015?
>
> Did the Marketplace properly determine that you were not eligible for Medicaid, effective July 1, 2015?
>
> Did the Marketplace properly determine that you were eligible for additional assistance under the APTC Premium Assistance Program under Social Services Law § 367-a(3)(e)?

Procedural History

On June 11, 2015, the Marketplace received your five updated applications for health insurance. A preliminary eligibility determination was prepared with regard to the last application filed that day finding you eligible to receive up to $215.00 per month in advance premium tax credits, eligible for cost sharing reductions, eligible for the APTC Premium Assistance Program, and not eligible for Medicaid, effective July 1, 2015.

On June 15, 2015, the Marketplace again prepared a preliminary eligibility redetermination with the same findings as the June 11, 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 insofar as you were not eligible for Medicaid.

On June 16, 2015, the Marketplace issued an eligibility determination notice consistent with the June 11, 2015 preliminary determination and June 15, 2015 preliminary redetermination.

That same day, the Marketplace issued a notice confirming your enrollment in Fidelis Care Silver, which could start as early as June 1, 2015 provided you paid your first month's premium. The notice also confirmed that you will be applying the maximum APTC amount of $215.00 per month and the balance of your premium of $146.02 will be paid by New York through its APTC Premium Assistance Program.

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 closed at the end of the hearing.

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 Head of Household with a Qualifying Individual. You will claim your five-year-old son as a dependent on that tax return.

2) You are appealing your eligibility only.

3) You testified that you are not satisfied with your health plan because they will not cover a medical procedure you need to have performed.

4) The application that was submitted on June 11, 2015 listed annual household income of $22,786.40, which is your expected annual income from your employment. You testified that this amount was correct.

5) Your application states that you will not be taking any deductions on your 2015 tax return.

6) Your application states that you and your son reside in Onondaga 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 $15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 133% but less than 150% of the 2014 FPL, the expected contribution is between 3.02% and 4.02% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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)).

APTC Premium Assistance

Advance premium tax credit (APTC) Premium Assistance is available in New York State to a person who:

1) is a parent of a child under 21 years old;

2) has a household income greater than 138% of the FPL but less than or equal to 150% of the FPL for the applicable family size;

3) is not eligible for Medicaid;

4) is enrolled in a silver-level qualified health plan; and

5) is applying the full amount of the APTC to the cost of the plan

(N.Y. Soc. Serv. Law § 367-a(3)(e)).

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 $15,930.00 for a two - person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for advance premium tax credits (APTC) of up to $215.00 per month.

The application that was submitted on June 11, 2015 listed an annual household income of $22,786.40 and the eligibility determination relied upon that information.

You expect to file you 2015 income taxes as head of household with a qualifying individual and will claim your son as a dependent on that tax return. Therefore, you are in a two-person household.

You reside in Onondaga County, where the second lowest cost silver plan available for an individual through the Marketplace costs $285.13 per month.

An annual income of $22,786.40 is 144.86% of the 2014 FPL for a two-person household. At 144.86% of the FPL, the expected contribution to the cost of the health insurance premium is 3.72% of income, or $70.64 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 ($285.13 per month) minus your expected contribution ($70.64 per month), which equals $214.49 per month. Therefore, rounding up to the nearest dollar, the Marketplace correctly determined you to be eligible for up to $215.00 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 $22,786.40 is 144.86% 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 eligible for the APTC Premium Assistance Program.

APTC Premium Assistance is available to a person who has an annual household income that is between 138% and 150% of the 2014 FPL and his the parent of a child under age 21. Since an annual household income of $22,786.40 is 144.86% of the FPL, you are the parent of a five-year-old son, and are applying the maximum amount of your APTC to your monthly premiums, you were correctly determined eligible for APTC Premium Assistance.

The last 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 $15,930.00 for a two-person household. Since $22,786.40 is 143.04% 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 16, 2015 eligibility determination notice properly stated that, based on the information you provided, you were eligible for up to $215.00 per month in APTC, eligible for cost sharing reductions, eligible for the APTC Premium Assistance Program, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, you testified that you are not satisfied with the silver-level health plan you are enrolled in because it will not cover a medical procedure you need to have performed. This is not an appealable issue over which we have jurisdiction, therefore, this decision cannot address your concern. Since your remaining issue concerns a health insurer and coverage/benefits, you can contact the health plan directly to find out your rights in such circumstances and/or NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at http://www.dfs.ny.gov/consumer/fileacomplaint.htm

Decision

The June 16, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 15, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to $215.00 per month in advance premium tax credits (APTC)

You remain eligible for cost sharing reductions.

You remain eligible for the APTC Premium Assistance Program

You are ineligible for Medicaid.

Your request to change plans is not an appealable issue over which the Appeals Unit has jurisdiction and, therefore, your concern is not addressed in this Decision.

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. 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:

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  P.O. Box 11729
  Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The June 16, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for up to $215.00 per month in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid.

Since your remaining issue concerns a health insurer and coverage/benefits over which the Appeals Unit does not have jurisdiction, you can contact the health plan directly to find out your rights in such circumstances and/or NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30

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A Copy of this Decision Has Been Provided To:

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