



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

Notice of Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003607

[REDACTED]

Dear [REDACTED],

On October 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 24, 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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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 \$227.00 per month in advance premium tax credit, effective August 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

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

Procedural History

On June 23, 2015, the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared, stating that you were eligible to receive an advance premium tax credit of up to \$227.00 and cost-sharing reductions.

Also on June 23, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your eligibility for financial assistance.

On June 24, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the June 23, 2015 application. It stated that you were eligible to receive an advance premium tax credit of up to \$227.00

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per month and, if you selected a silver-level plan, for cost-sharing reductions, effective August 1, 2015. The notice further stated that you were not eligible for Medicaid because your household income of \$30,400.08 was over the allowable income limit.

On August 25, 2015, you were scheduled for a hearing with a Hearing Officer from the Marketplace's Appeals Unit, however, your appeal was dismissed for failure to appear at the scheduled hearing.

On October 8, 2015, you requested a new hearing.

On October 28, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, you designated [REDACTED] as your Authorized Representative. She was sworn in and appeared on your behalf. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence, including your Social Security Benefit statement, and proof of your spouse's income for the month of June 2015.

On November 6, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a copy of your Patient Discharge Instructions notice from [REDACTED], a letter from your spouse's employer confirming your spouse's income for June 2015, a written personal statement regarding your medical treatment, and a copy of your Social Security benefit statement. These documents were collectively marked as Appellant's Exhibit 1, and incorporated into the record.

On November 12, 2015, the Marketplace's Appeals Unit received your additional supporting evidence, which included a copy of your medical records. These documents were collectively marked as Appellant's Exhibit 2, and incorporated into the record. The record was closed on November 12, 2015.

Findings of Fact

- 1) You testified that you expected to file your 2015 federal income tax return with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) The application that was submitted on June 23, 2015 listed an annual household income of \$30,400.08, consisting of \$25,200.00 you receive in Social Security benefits, and \$5,200.08 your spouse received in earned income.
- 3) The evidence provided indicates that you receive \$2,149.00 per month in Social Security benefits, as of January 2015 (Appellant's Exhibit 1,

November 6, 2015). According to this evidence, you were no longer eligible to receive Supplemental Security Income (SSI) payments as of January 2015 (*id.*).

- 4) You testified that your spouse works sporadically as a babysitter, and you cannot estimate what her expected income for the 2015 tax year will be. You further testified that the amount listed in the June 23, 2015 application was based on your spouse's earned income for 2014.
- 5) According to the evidence provided, your spouse earned \$300.00 during the month of June 2015 (Appellant's Exhibit 1, November 6, 2015).
- 6) Your application states that you are the only individual in your household seeking health insurance through the Marketplace.
- 7) Your application states that you will not be taking any deductions on your 2015 tax return.
- 8) Your application states that you live in Nassau County, New York.
- 9) According to the evidence provided, you are undergoing various treatments for a number of severe medical conditions (Appellant's Exhibit 1, November 12, 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 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

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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).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% 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)).

Medicaid

There are two primary places to apply for Medicaid in New York State, the Marketplace (New York State of Health) and your Local Department of Social Services. If you live in one of New York City's five boroughs, you may apply with the New York City Human Resources Administration.

The first step in identifying whether an applicant is eligible for Medicaid through the Marketplace is to determine if he or she meets certain nonfinancial criteria. In general, to qualify Medicaid through the Marketplace you must be fall into one of the modified adjusted gross income (MAGI) eligibility groups:

- An adult aged 19-64, not eligible for Medicare;
- A pregnant woman or infant;

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- A child aged 1-18; or
- A parent or caretaker relative.

If you fall into one of these eligibility groups, then the Marketplace determines your eligibility for Medicaid using your modified adjusted gross income (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If you do not fall into one of these categories you may be eligible for non-MAGI-based Medicaid coverage through the Local Department of Social Services or the New York City Human Resources Administration (N.Y. Soc. Serv. Law § 366(1)(c)).

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).

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 you were eligible for an advance premium tax credit (APTC) of up to \$227.00 per month.

The application that was submitted on June 23, 2015 listed an annual household income of \$30,400.08 and the eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2015 federal income tax return as married filing jointly and will claim no dependents on that tax return.

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You reside in Nassau County, New York, where the second lowest cost silver plan available for an individual through the Marketplace costs \$379.93 per month.

An annual income of \$30,400.08 is 193.26% of the 2014 federal poverty level (FPL) for a two-person household. At 193.26% of the FPL, the expected contribution to the cost of the health insurance premium is 6.03 % of income, or \$152.68 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 (\$379.93 per month) minus your expected contribution (\$152.68 per month), which equals \$227.24 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$227.00 per month in APTC.

The second issue is whether you were properly found 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 \$30,400.08 is 193.26% 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 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 \$30,400.08 is 190.84% 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.

However, you credibly testified, and provided evidence on appeal, indicating that the information contained in your application did not accurately reflect your household's income during the month of June 2015.

You provided evidence that you received social security benefits in the amount of \$2,149.00, and your spouse earned \$300.00, during the month of June 2015. Therefore, you had a household income of \$2,449.00 for the month of June 2015.

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 \$1,832.00 per month. Since your income was \$2,449.00 for the month of June 2015, you did not qualify for Medicaid on the basis of monthly income when you submitted your application.

Since the June 24, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$227.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

Although you do not meet the financial requirements to be eligible for Medicaid through the Marketplace, you may be eligible for Medicaid on a non-MAGI basis. Therefore, the Marketplace will refer your case to your local Department of Social Services for consideration.

For more information about non-MAGI eligibility requirements for Medicaid, you can contact your local Department of Social Services. A listing of offices can be found at www.health.ny.gov/health_care/medicaid/ldss.htm.

Decision

The June 24, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$227.00 in advance premium tax credits.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid through the Marketplace.

Since you may be eligible for Medicaid on a non-MAGI basis, the Marketplace will refer your case to your local Department of Social Services for consideration.

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.

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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 24, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$227.00 in advance premium tax credits.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid through the Marketplace.

Since you may be eligible for Medicaid on a non-MAGI basis, the Marketplace will refer your case to your local Department of Social Services for consideration.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]