



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

Notice of Decision

Decision Date: October 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003626

[REDACTED]

Dear [REDACTED],

On August 28, 2015, you and your spouse 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 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]
Appeal Identification Number: AP000000003626

[REDACTED]

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 \$273.00 per month in advance premium tax credit, effective August 1, 2015?

Did the Marketplace properly determine that you were eligible for cost sharing reductions, effective August 1, 2015?

Did the Marketplace properly determine that you were eligible for additional assistance through the APTC Premium Assistance Program under Social Services Law § 367-a(3)(e), effective August 1, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid, effective August 1, 2015?

Procedural History

On June 23, 2015, the Marketplace received your application for health insurance for yourself and your infant child.

That same day, the Marketplace prepared a preliminary eligibility determination that, in part, found you eligible to receive up to \$215.00 per month in advance premium tax credit (APTC), and eligible for cost sharing reductions (CSR) and to receive additional assistance under the APTC Premium Assistance Program, effective August 1, 2015. You were also determined ineligible for Medicaid.

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Also that same day, you spoke with a representative from the Marketplace's Account Review Unit and appealed the eligibility determination insofar as you were not eligible for Medicaid.

On June 24, 2015, the Marketplace issued a notice of eligibility determination that was consistent with the June 23, 2015 preliminary determination.

On August 28, 2015, you and your spouse 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 and your spouse expect to file your 2015 taxes with a tax filing status of Married Filing Jointly and plan on claiming your child as a dependent on that tax return.
- 2) You are appealing your eligibility only.
- 3) You testified that you want to be eligible for Medicaid and that you were told the Marketplace is counting your wife's income in the household but not her as a member of the household. You testified that you want her counted as a household member so that you have a three-person household for purposes of determining your eligibility for Medicaid.
- 4) The application that was submitted on June 23, 2015 listed an annual household income of \$29,636.00, which consists of your wife's gross earnings of \$15,600.00, her Social Security Disability benefits of \$12,636.00, and \$200.00 per month of other income, which is \$2,400.00 per year, less \$1,000.00 in reservist, artist tax deductions. Your wife testified that this amount is accurate.
- 5) Your application states that you live in Bronx 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

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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 \$19,790.00 for a three-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:

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- 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 \$20,090.00 for a three-person household (79 Fed. Reg. 3593).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to 273.00 per month.

The application that was submitted on June 23, 2015 listed an annual household income of \$29,636.00 and the eligibility determination relied upon that information.

You expect to file your 2015 income taxes as Married Filing Jointly and plan on claiming your child as a dependent on that tax return. Therefore, the Marketplace based its determination on you being in a three-person household, not a two-person household as you had been told.

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

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An annual income of \$29,636.66 is 149.75% of the 2014 FPL for a three-person household. At 149.75% of the FPL, the expected contribution to the cost of the health insurance premium is 4.01% of income, or \$98.91 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 (\$98.91 per month), which equals \$272.84 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$273.00 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 \$29,363.00 is 149.75% 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. Since an annual household income of \$29,636.00 is 145.75% of the FPL, you were correctly determined eligible for 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 \$20,090.00 for a three-person household. Since \$29,636.00 is 147.52% 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 24, 2015 eligibility determination notice properly stated that, based on the information you provided, you were eligible for up to \$273.00 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 and your wife testified that you want to be determined eligible for Medicaid and will look into filing a non-MAGI financial application at your local Human Resources Administration office. The Marketplace does not have the authority to decide if you qualify for non-MAGI-based Medicaid.

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For more information about non-MAGI eligibility requirements for Medicaid, you can contact the New York City Human Resources Administration. A listing of offices can be found at www.nyc.gov/html/hra/html/home/home.shtm.

Decision

The June 24, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 18, 2015

How this Decision Affects Your Eligibility

You remain eligible for up to \$273.00 per month in APTC.

You are eligible for cost-sharing reductions and for additional assistance through the APTC Premium Assistance Program under Social Services Law § 367-a(3)(e).

You are ineligible for Medicaid.

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.

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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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- By fax: 1-855-900-5557

Summary

The June 24, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$273.00 per month in APTC.

You are eligible for cost-sharing reductions and for additional assistance through the APTC Premium Assistance Program under Social Services Law § 367-a(3)(e).

You are ineligible for Medicaid.

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:

