



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: AP000000003834

[REDACTED]

Dear Mr. [REDACTED],

On September 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 15, 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 regulations 45 CFR § 155.545(b).

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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 provide you and your spouse proper notice of the May 15, 2015 renewal determination?

Did the Marketplace properly determine that you and your spouse were eligible to receive up to \$588.40 per month in advance premium tax credit, effective July 1, 2015?

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

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

Did the Marketplace properly calculate your income?

Procedural History

On July 18, 2014, the Marketplace issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid because your household income of \$0.00 was at or below the allowable income limit. This eligibility was effective June 1, 2014.

On July 26, 2014, the Marketplace issued a notice confirming that you and your spouse had selected Healthfirst as your Medicaid Managed Care plan and that the effective date of that plan was September 1, 2014.

On May 6, 2015, your eligibility for health insurance was run by the Marketplace and on May 15, 2015 the Marketplace issued a notice stating that it was time to renew your health insurance for 2015. That notice stated that you and your spouse qualified for a tax credit up to \$588.40 per month, and help paying your share of out-of-pocket costs, effective July 1, 2015. It further stated that you and your spouse were not eligible for Medicaid because, based on information from federal and state sources, your income was between \$21,708.00 and \$62,920.00. You were requested to make changes to your account by June 15, 2015 if you believed a mistake had been made or if anything had changed in your life that would affect how you were covered, in order for such changes to be effective July 1, 2015.

No changes were made to your account by June 15, 2015.

On June 17, 2015, the Marketplace issued a disenrollment notice terminating Medicaid coverage through Healthfirst for you and your spouse, effective June 30, 2015.

On July 6, 2015, The Marketplace received your written request to appeal this determination as it related to your continuing eligibility for financial assistance.

On September 11, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence.

On September 11, 2015 and September 20, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included: three copies of your July 2015 [REDACTED] Account Statement, a written statement from the [REDACTED], and a copy of your August 2015 [REDACTED] Account Statement. These documents were collectively marked as Appellant's Exhibit 1, and incorporated into the record.

Findings of Fact

- 1) You testified that you expect to file your 2015 taxes with a tax filing status of married filing jointly. You will claim no dependents on that tax return.
- 2) You provided evidence that you and your spouse are active, full-time members of the [REDACTED] both living under a vow of obedience and poverty

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as of November 11, 2013. According to this evidence, you and your spouse each receive an allowance of \$370.00 per month for shelter and \$305.00 per month for food and clothing, with an additional maximum of \$105.00 per month for reimbursement of transportation expenses incurred in connection with your religious service. (Appellant's Exhibit 1, September 20, 2015).

- 3) The renewal application that was run on May 6, 2015 was evaluated based on your 2013 federal income tax return, which reflected a household income of \$30,612.00. You testified that you expect a household income of less than \$21,708.00 for the 2015 tax year.
- 4) You testified, and provided supporting evidence, that you and your spouse each receive a basic allowance of \$780.00 per month for food and shelter, for a typical monthly total of \$1,560.00 (Appellant's Exhibit 1, September 20, 2015).
- 5) You provided evidence that, for the month of July 2015, you and your spouse received a total allowance payment of \$1,601.95 (Appellant's Exhibit 1, September 20, 2015).
- 6) You testified that you did not receive the May 15, 2015 renewal notice because it went to your old address. The record reflects that this notice was sent to:

[REDACTED]

- 7) You testified that you and your spouse recently moved to:

[REDACTED]

- 8) The record reflects that you changed your mailing address on July 2, 2015.
- 9) You testified, and the record reflects, that you live in [REDACTED], [REDACTED]

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

(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).

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

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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 \$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).

Medicaid Renewal

In general, the Marketplace must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). The Marketplace must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

The Marketplace must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance,

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You further testified that you and your spouse recently moved to:



However, the record reflects that you updated your address in your Marketplace account on July 2, 2015. Since the Marketplace issued the May 15, 2015 renewal notice to the address you provided in your Marketplace account, you were provided proper notice of your eligibility determination, and the May 15, 2015 renewal determination and the subsequent disenrollment of you and your spouse from Medicaid is AFFIRMED.

Even if the substantive findings of the May 15, 2015 renewal determination were to be reviewed, no different outcome would be reached.

The analysis of whether the Marketplace properly determined that you and your spouse were eligible for an advance premium tax credit (APTC) of up to \$588.40 per month would be as follows.

You and your spouse were originally found eligible for Medicaid based on a household income of \$0.00 on July 18, 2014. This eligibility was effective June 1, 2014.

Generally, the Marketplace must redetermine a qualified individual's eligibility for Medicaid once every 12 months eligibility without requiring information from the individual, if able to do so, based on reliable information contained in the individual's account or other more current information available to the agency.

The Marketplace's May 15, 2015 renewal notice was sent to so that you could update your account, if necessary, and your enrollment in health insurance could be determined prior to the end of this 12 month period, without any gap in insurance coverage. That notice stated based on information from federal and state sources, your income was between \$21,708.00 and \$62,920.00, and you were now eligible for advance premium tax credits, instead of Medicaid. You were requested to make changes to your account by June 15, 2015 if you believed a mistake was made or if anything has changed in your life that would affect how you were covered.

Because there was no timely response to this notice, the Marketplace was required to put the projected eligibility noted in the renewal notice into effect, and your enrollment in a Medicaid Managed Care plan was properly ended.

If the original May 5, 2015 renewal determination were to be reviewed, it would have been determined that, based on your own statements, you are in a two-person household, and expected to file your 2015 income taxes as married filing jointly with no dependents.

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You reside in Queens County, New York, where the second lowest cost silver plan available for a couple through the Marketplace costs \$743.50 per month.

An annual income of \$30,612.00 is 194.61% of the 2014 FPL for a two-person household. At 194.61% of the FPL, the expected contribution to the cost of the health insurance premium is 6.09% of income, or \$155.35 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 couple in your county (\$743.50 per month) minus your expected contribution (\$155.36 per month), which equals \$588.14 per month.

In general, the Marketplace calculates APTC by rounding to the nearest dollar; therefore, the Marketplace should have calculated your eligibility for APTC to be \$588.00 per month.

The Marketplace determined that you and your spouse were eligible for up to \$588.40 per month in APTC, which should have been rounds to \$588.00.

However, since the APTC that was authorized (\$588.40 per month) is not materially different than the APTC that should have been authorized (\$588.00 per month), and the error is in your favor, that difference can be reconciled on a federal individual income tax return and will not be addressed here.

With regard to cost-sharing reductions, these are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$30,612.00 is 194.61% of the applicable FPL, the Marketplace correctly found you and your spouse to be eligible for cost sharing reductions.

With regard to whether the Marketplace properly determined that you and your spouse were ineligible for Medicaid based on the information obtained from your application, and state and federal data sources.

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 your May 15, 2015 renewal notice was issued, the relevant FPL was \$15,930.00 for a two-person household. Since \$30,612.00 is 192.17% of the 2015 FPL, the Marketplace properly found you and your spouse to be ineligible for Medicaid based on the information obtained from state and federal data sources.

Your contention that your income should not be considered as taxable income for the purposes of eligibility for financial subsidies through the Marketplace has not been substantiated. The only evidence you produced to support this contention

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are unsigned documents issued by your employer, a [REDACTED]. You did not supply any notice from the IRS confirming your tax-exempt status, nor did you supply any of the documentation required by the IRS to show that you would be entitled to tax-exempt status. Simply being a [REDACTED] is insufficient for the Marketplace to reach such a finding, as [REDACTED] in general are subject to income tax.

Decision

The Marketplace provided you and your spouse proper notice of the May 15, 2015 renewal notice.

The May 15, 2015 renewal notice is AFFIRMED.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

The May 15, 2015 renewal notice has since been superseded by a notice of eligibility determination issued on September 24, 2015.

The September 24, 2015 notice of eligibility determination remains in effect.

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 Marketplace provided you and your spouse proper notice of the May 15, 2015 renewal notice.

The May 15, 2015 renewal notice is AFFIRMED.

The May 15, 2015 renewal notice has since been superseded by a notice of eligibility determination issued on September 24, 2015.

The September 24, 2015 notice of eligibility determination remains in effect.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

