



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

Notice of Decision

Decision Date: October 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003984

[REDACTED]

Dear [REDACTED],

On September 28, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 22, 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).

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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that your spouse was eligible to receive up to \$202.00 per month in advance premium tax credit, effective September 1, 2015?

Did the Marketplace properly determine that your spouse was eligible for cost-sharing reductions, effective September 1, 2015?

Did the Marketplace properly determine that your spouse was not eligible for Medicaid?

Procedural History

On July 21, 2015, the Marketplace received your application for health insurance for your husband alone. That day, a preliminary eligibility determination was prepared with regard to the July 21, 2015 application, stating that your spouse was eligible to receive an advance premium tax credit (APTC) of up to \$202.00 per month, as well as cost-sharing reductions (CSR), effective September 1, 2015. It did not make a determination on whether your spouse was eligible for Medicaid.

Also on July 21, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as your spouse was not found eligible for Medicaid.

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On July 22, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the July 21, 2015 application, stating that your spouse was eligible to receive an APTC of up to \$202.00 per month; eligible for CSR provided you selected a silver-level plan; and not eligible for Medicaid.

On September 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 remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) your earning statements received during July 2015 and (2) a letter issued by your spouse's employer reflecting that your spouse was employed, but received no income during July 2015. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by October 13, 2015.

Accordingly, the record was closed on October 13, 2015.

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 married filing jointly, and that you would not be claiming any dependents on that tax return.
- 2) In your July 21, 2015 applications, you were seeking insurance for your spouse only.
- 3) In the application that was submitted on July 21, 2015, you attested to an expected yearly income for yourself of \$20,410.00 during 2015 and that your spouse received \$4,612.50 between January 1, 2015 and March 31, 2015. You testified that this amount was correct.
- 4) You testified that your income varies based on the amount of hours you work during a given two week period. You further testified that you are paid once every two weeks by your employer.
- 5) You testified that your spouse did not work between March 31, 2015 and August 2, 2015 because of an injury. You further testified that your spouse now only works intermittently as his injury will allow.
- 6) You testified that your spouse received a single employer-based disability payment of \$400.00 during June 2015.

- 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 Erie County, New York.
- 9) You testified that you were seeking Medicaid coverage for your spouse since the plans available through the Marketplace were unaffordable to you because of your combined income, even with the tax credit available.

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

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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 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).

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Legal Analysis

The first issue is whether the Marketplace properly determined that your spouse was eligible for an advance premium tax cred (APTC) of up to \$202.00 per month.

The application that was submitted on July 21, 2015 listed an annual household income of \$25,022.50, which was comprised of (1) \$20,410.00 you expect to receive from your employer during 2015 and (2) \$4,612.50 that your spouse received from his employer, prior to his injury, between January 1, 2015 and March 31, 2015. The eligibility determination relied upon that information.

Your spouse is in a two-person household. You and your spouse expect to file your 2015 income taxes as married filing jointly and not claim any dependents on that tax return.

You and your spouse reside in Erie County, New York, where the second lowest cost silver plan available for an individual through the Marketplace costs \$295.03 per month.

An annual income of \$25,022.50 is 159.08% of the 2014 federal poverty level (FPL) for a two-person household. At 159.08% of the FPL, the expected contribution to the cost of the health insurance premium is 4.44% of income, or \$92.61 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 (\$295.03 per month) minus your expected contribution (\$92.61 per month), which equals \$202.42 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your spouse to be eligible for up to \$202.00 per month in APTC.

The second issue is whether your spouse was properly found eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$25,022.50 is 159.08% of the applicable FPL, the Marketplace correctly found your spouse to be eligible for CSR.

The third issue is whether the Marketplace properly determined that your spouse was 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

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the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$25,022.50 is 157.08% of the 2015 FPL, the Marketplace properly found your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the July 22, 2015 eligibility determination properly stated that, based on the information you provided, your spouse was eligible for up to \$202.00 per month in APTC, eligible for CSR, and ineligible for Medicaid, it is correct and is **AFFIRMED**.

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 \$1,831.95 per month.

The Hearing Officer directed you to provide (1) copies your earning statements received during July 2015 and (2) a letter issued by your spouse's employer reflecting that your spouse was employed, but received no income during July 2015, so that your spouse's eligibility for Medicaid on a monthly household income basis could be assessed.

Since the record reflects that you did not provide the documents as directed by the Hearing Officer within the time required, there is no basis to return your case to the Marketplace to review your spouse's eligibility for Medicaid on a monthly household income basis.

Decision

The July 22, 2015 eligibility determination notice is **AFFIRMED**.

This decision has no effect on any eligibility determination issued after July 22, 2015.

Effective Date of this Decision: October 22, 2015

How this Decision Affects Your Eligibility

Your spouse remains eligible to receive an APTC of up to \$202.00 per month and, if a silver-level is selected, eligible for CSR.

Your spouse is not eligible for Medicaid.

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

Summary

The July 22, 2015 eligibility determination notice is AFFIRMED.

This decision has no effect on any eligibility determination issued after July 22, 2015.

Your spouse remains eligible to receive an APTC of up to \$202.00 per month and, if a silver-level is selected, eligible for CSR.

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Your spouse is not eligible for Medicaid.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

