



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: AP000000004131

[REDACTED]
[REDACTED]
[REDACTED]

Dear Ms. [REDACTED]

On October 7, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 28, 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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Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004131

[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 \$51.00 per month in advance premium tax credits, effective September 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

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

Procedural History

On July 28, 2015, the Marketplace issued an eligibility determination notice based on the information contained in your July 27, 2015 application, stating in part that you and your spouse were eligible to share an advance premium tax credit of up to \$51.00 per month, effective September 1, 2015, but were not eligible for cost-sharing reductions. The notice further stated that you were not eligible for Medicaid, because your household income of \$86,909.95 was over the allowable income limit.

On July 30, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to eligibility for additional financial assistance for you and your spouse.

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).

On October 7, 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, including proof of your household income for the month of July 2015.

On October 21, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a copy of your paystubs for the month of July 2015, and a copy of your spouse's Worker's Compensation payment statements for the month of July 2015. These documents were collectively marked as Appellant's Exhibit 1, and incorporated into the record. The record was closed on October 21, 2015.

Findings of Fact

- 1) You testified that you are only appealing the eligibility determination for yourself and your spouse.
- 2) You testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly. You will claim your two children as dependents on that tax return. You further testified that you are currently pregnant and expecting one child.
- 3) The application that was submitted on July 27, 2015 listed that you and your spouse were seeking health insurance through the Marketplace. It also indicated that you were pregnant and expecting one child.
- 4) The application that was submitted on July 27, 2015 listed annual household income of \$86,909.95, consisting of your earned income of \$41,600.00, and your spouse's earned income of \$45,309.95. You testified that this amount is not an accurate reflection of your expected income for 2015 because it does not reflect the change in your work schedule.
- 5) According to the evidence provided, you are paid weekly and earned \$800.00 on July 1, 2015; \$800.00 on July 8, 2015; \$800.00 on July 15, 2015; \$800.00 on July 22, 2015; and \$800.00 on July 29, 2015, before taxes were deducted (Appellant's Exhibit 1, October 21, 2015).
- 6) You testified, and provided evidence, that your spouse received Worker's Compensation payments during the month of July 2015. The evidence provided indicates that your spouse received \$2,983.76 in Worker's Compensation payments on July 14, 2015 for four weeks of "TTD benefits" between June 17, 2015 and July 14, 2015; and \$1,491.88 on August 11, 2015 for two weeks of "TTD benefits" between July 29, 2015 and August 11, 2015. (Appellant's Exhibit 1, October 21, 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 Queens 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 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 \$23,850.00 for a four-person household (79 Fed. Reg. 3593).

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For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution is 9.56% 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 New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) (42 CFR § 435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-03).

“Family size” means the number of persons counted as members of an individual’s household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

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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 \$28,410.00 for a five-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 to share an advance premium tax credit (APTC) of up to \$51.00 per month with your spouse.

The application that was submitted on July 27, 2015 listed an annual household income of \$86,909.95 and the eligibility determination relied upon that information.

For purposes of calculating your eligibility for advance premium tax credits and cost-sharing reductions, you are in a four-person household. You expect to file your 2015 income taxes as married filing jointly and will claim your two children as dependents on that tax return.

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

An annual income of \$86,909.95 is 364.4% of the 2014 federal poverty level (FPL) for a four-person household. At 364.4% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$692.38 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 (\$692.38 per month), which equals \$51.12 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible to share an APTC of up to \$51.00 per month with your spouse.

The second issue is whether you were properly found ineligible 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 \$86,909.95 is 364.4% of the applicable FPL, the Marketplace correctly found you to be ineligible for cost sharing reductions.

The third issue is whether the Marketplace properly determined that you, [REDACTED], were ineligible for Medicaid.

For purposes of determining Medicaid eligibility, there are five people in your household, which includes yourself, your spouse, your two children, and your one unborn child. Your unborn child was counted in accordance with the New York State Plan Amendment.

Medicaid can be provided through the Marketplace to pregnant women who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 223% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$28,410.00 for a five-person household. Since \$86,909.95 is 305.91% 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.

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 223% of the 2015 FPL, which is \$5,280.00 per month for a five-person household.

You provided evidence that you earned \$800.00 on July 1, July 8, July 15, July 22, and July 29, 2015, before taxes were deducted. Therefore, you earned \$4,000.00 in the month of July 2015. You further provided evidence that your spouse was receiving Worker's Compensation benefits during the month of July 2015, receiving \$2,983.76 on July 14, 2015. However, the next Worker's Compensation payment statement indicates that your spouse received \$1,491.88 on August 11, 2015 for a two-week benefit period. Evidence of your spouse's Worker's Compensation payments for the subsequent two weeks of July 2015 were not provided; however, based upon the evidence provided, it is reasonable to infer that your spouse received a payment for \$1,491.88 on or around July 28, 2015. Therefore, you had a household income of \$8,475.64 for the month of July 2015.

Since your July 2015 income of \$8,475.64 exceeds the Medicaid limit of \$5,280.00, you do not qualify for Medicaid on a monthly basis.

Since the July 28, 2015 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for up to \$51.00 per month in APTC, ineligible for cost-sharing reductions, and you were ineligible for Medicaid, it is correct and is **AFFIRMED**.

Decision

The July 28, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible to share and advance premium tax credits of up to \$51.00 with your spouse.

You are ineligible for cost-sharing reductions.

You are not eligible for Medicaid.

This decision has no effect on any eligibility determinations made after July 28, 2015.

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

Summary

The July 28, 2015 eligibility determination notice is **AFFIRMED**.

This decision does not change your eligibility.

You remain eligible to share and advance premium tax credits of up to \$51.00 with your spouse.

You are ineligible for cost-sharing reductions.

You are not eligible for Medicaid.

This decision has no effect on any eligibility determinations made after July 28, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]