



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

Notice of Decision

Decision Date: February 12, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004188



Dear [REDACTED],

On February 1, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 5, 2015 eligibility redetermination.

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).

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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 \$25.00 per month in advance premium tax credit?

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

Did the Marketplace properly determine that your child was eligible to enroll in Child Health Plus with a \$30.00 monthly premium?

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

Procedural History

On August 4, 2015 you applied for health insurance through the Marketplace for you and your child. The Marketplace rendered a preliminary eligibility determination that you are eligible for up to \$25.00 in advance premium tax credit per month and your child is eligible for Child Health Plus with a monthly premium of \$30.00.

On the same day you spoke with the Marketplace Account Review Unit and requested an appeal insofar as the amount of financial assistance you and your child were determined eligible to receive through the Marketplace.

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On August 5, 2015, the Marketplace issued an eligibility determination stating you eligible to receive up to \$25.00 advance premium tax credits per month and your child was eligible to enroll in Child Health Plus with a cost of \$30.00 per month. The notice also stated that you and your child were not eligible for Medicaid because your household income exceeded the income limit.

On October 13, 2015, you had a scheduled telephone hearing with a Hearing Officer from the Marketplace Appeals Unit. A Hearing Officer contacted you, and at your request the hearing was rescheduled to a later date.

Your telephone hearing with the Marketplace Appeals Unit was rescheduled to November 3, 2015. On November 3, 2015, a Hearing Officer contacted you and you requested to reschedule the hearing to a later date.

Your telephone hearing was rescheduled for December 29, 2015. However, the Marketplace failed to send you a notice verifying the time and date of your scheduled Telephone Hearing. The hearing was rescheduled by the Marketplace for February 2, 2016.

On February 2, 2016, you 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 conclusion of the hearing. The record is now complete and closed.

Findings of Fact

A review of the record supports the following findings of fact:

1. You are applying for health insurance through the Marketplace for yourself and your one-year-old child.
2. You testified that you plan to file your 2015 U.S. Individual Tax Return with the tax filing status of single and will be claiming one dependent on that return.
3. According to your August 4, 2015 Marketplace application, you have an expected yearly income of \$45,280.00. You expected to receive \$45,000.00 in IRA Distributions and \$280.00 in earned income in 2015.
4. According to your August 4, 2015 Marketplace application, you entered a current monthly income of \$3,000.00.
5. You currently reside in New York County, New York.
6. You testified that the amount of financial assistance you were determined eligible for is not affordable.

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7. You testified that your sole source of income are IRA Distributions and there is only approximately \$15,000.00 left in the account.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

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 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 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)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

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The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL (PHL § 2510(9)(d)(iv)).

In an analysis of Child Health Plus 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 was \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

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).

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); Department of Health Administrative Directive 13 OHIP/ADM-03).

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).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may

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be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

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 \$25.00 per month.

The application that was submitted on August 4, 2015 listed an annual household income of \$45,280.00 and the eligibility determination relied upon that information. Your application reflects that you expected to receive \$45,000.00 from IRA distributions and \$280.00 in earned income in 2015.

You testified that you expect to file your 2015 income taxes with the tax status of single and will claim one dependent on that return. Therefore, you have a two-person tax household.

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

An annual income of \$45,280.00 is 287.86% of the 2014 Federal Poverty Level (FPL) for a two-person household. At 287.86% of the FPL, the expected contribution to the cost of the health insurance premium is 9.20% of income, or \$347.15 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 (\$371.75 per month) minus your expected contribution (\$347.15 per month), which equals \$24.60 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$25.00 per month in APTC.

The second issue is whether you were properly found you not 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 \$45,280.00 is 287.86% of the applicable FPL, the Marketplace correctly found you to be not eligible for cost-sharing reductions.

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The third issue is whether the Marketplace properly determined your child eligible to enroll in Child Health Plus with a \$30.00 monthly premium.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the federal poverty level (FPL). A child with a household income between 250% and 300% of the FPL are responsible for a \$30.00 per month Child Health Plus premium payment. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$45,280.00 is 284.24% of the 2015 FPL the Marketplace properly found your child to be eligible for Child Health Plus with a \$30.00 per month premium payment.

The fourth issue is whether the Marketplace properly determined that you and your child 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.

Medicaid can be provided through the Marketplace to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% 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 \$45,280.00 is 284.24% of the 2015 FPL for a two-person household, the Marketplace properly found you and your child to be not eligible for Medicaid.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Therefore, to be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than \$1,354.00 per month, and your child's monthly income must not exceed \$2,045.00.

According to your August 4, 2015, Marketplace application, you entered a monthly household income of \$3,000.00. Since this amount exceeds the income thresholds to be eligible for Medicaid, the Marketplace properly determined that you and your child were not eligible for Medicaid.

You testified that your sole source of income is IRA distributions and the account only has a balance of approximately \$15,000.00. At this time the record does not contain sufficient testimony or documentation to return your case to the Marketplace to recalculate your benefits on a yearly or monthly basis. However,

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please contact the Marketplace when you have sufficient documentation to demonstrate your income.

Since the August 5, 2015 eligibility determination properly stated that: (1) you are eligible for APTC of up to \$25.00 per month, (2) not eligible for cost-sharing reductions, (3) your child is eligible to enroll in Child Health Plus with a \$30.00 monthly premium and (4) you and your child are not eligible for Medicaid, it is correct and is AFFIRMED.

Decision

The August 5, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: February 12, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

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:

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Summary

The August 5, 2015 eligibility determination is AFFIRMED.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

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:

