



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

Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004286



Dear [REDACTED],

On November 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 13, 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 letter.

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 you, your spouse and child were eligible to receive up to \$933.00 monthly of advance premium tax credit as of August 13, 2015?

Did the Marketplace properly determine that you, your spouse and child were eligible for cost-sharing reductions as of August 13, 2015?

Did the Marketplace properly determine that you, your spouse and child were not eligible for Medicaid as of August 13, 2015?

Procedural History

The Marketplace received your application for health insurance on August 12, 2015.

On August 12, 2015 the Marketplace rendered a preliminary eligibility determination that you, your spouse and child are eligible for up to \$933.00 of advance premium tax credits and cost-sharing reductions, if you enroll in a silver-level qualified health plan.

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

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On August 13, 2015, the Marketplace issued an eligibility determination notice stating that you, your spouse and child are eligible to receive \$933.00 monthly of advance premium tax credits, eligible for cost-sharing reductions, and not eligible for Medicaid because your household income is over the allowable limit.

On November 10, 2015, you appeared for the scheduled telephone hearing with a Hearing Officer from the Marketplace Appeals Unit. Testimony was taken at 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, your spouse and nineteen-year-old child.
2. You currently reside with your spouse and your nineteen-year-old child.
3. You testified that you plan on filing a 2015 federal income tax return with the tax status of married filing jointly and will claim one dependent on that tax return.
4. According to your August 12, 2015 Marketplace application, your 2015 expected annual household income is \$32,500.00.
5. According to your August 12, 2015 application, you attested that your average monthly income is the same as your income in the current month.
6. You testified that your spouse consistently receives \$625.00 in net income on a weekly basis.
7. You testified you do not have any documentation to show how much gross income your spouse earns.
8. According to your August 12, 2015 Marketplace application, you and your family lived in Queens County, New York.
9. You testified that your spouse will be unemployed as of November 13, 2015.

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:

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The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the federal 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 qualified health plan; 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), 435.911(b)(1), 435.603(d)(4)).

The maximum amount of APTC that can be approved equals:

1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through the 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 2.1% to 9.56% of annual 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 benefit year for which coverage is requested (45 CFR § 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).

For annual household income in the range of at least 150% FPL but less than 200% FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3(g)(2)).

For purposes of APTC and cost-sharing reductions (CSR), household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Cost-Sharing Reductions:

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a qualified health plan 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 plan year coverage is requested, and (4) is enrolled in a silver-level qualified health plan (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 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)).

A child who is 19 or 20 years of age living with his or her parent is eligible for Medicaid with MAGI household income up to 155% of the FPL (New York Department of Health Administrative Directive 13 OHIP/ADM-03).

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 (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 found you, your spouse and child eligible for up to \$933.00 per month of advance premium tax credits.

In your August 13, 2015, application you attested to an expected yearly income in 2015 of \$32,500.00, and the eligibility determination relied upon that information.

According to the record, you plan on filing a U.S. Income Tax Return with the tax status of married filing jointly, with your spouse, and will claim one dependent on your 2015 federal income tax return. Therefore, you have a three-person household.

At the time of you completed your August 13, 2015 Marketplace application, you resided in Queens County, New York, where the second lowest cost silver plan that is available through the Marketplace for a couple and one dependent costs \$1059.49 per month.

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An annual household income of \$32,500.00 equals 164.22% of the 2014 federal poverty level (FPL) for a three-person household. At 164.22% of the 2014 FPL, the expected contribution to the cost of the health insurance premium is 4.68% of income, or \$126.75 per month.

The maximum amount of advance premium tax credit (APTC) that can be awarded equals the cost of the second lowest cost silver plan in your county (\$1059.49 per month) minus your expected contribution (\$126.75 per month), which equals \$932.74 per month.

Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$933.00 per month.

The second issue is whether the Marketplace properly found you, your spouse and child eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has an annual expected household income no greater than 250% of the FPL. Since your annual household income is 164.22% of the 2014 FPL, the Marketplace correctly found you eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly found you, your spouse and child 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 that is at or below 138% of the FPL for the applicable family size.

On the date of your application, the FPL was \$20,090.00 for a three-person household. Since \$32,500.00 is 161.77% of the 2015 FPL, the Marketplace properly found you, your spouse and child 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 may be based on current monthly household income and family size. To be eligible for Medicaid, you and your spouse must meet the nonfinancial criteria and have an income no greater than 138% of the FPL. In order to be eligible for Medicaid a household of three must not exceed a monthly income limit of \$1,832.00.

For your nineteen-year-old child to be eligible for Medicaid, the monthly income must not exceed 155% of the FPL, which is \$2,595.00.

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According to your August 12, 2015 application, you attested that your average monthly income is the same as your income in the current month. Therefore, your monthly household income was approximately $(\$32,500.00/12)$ \$2,708.33, and your family did not qualify for Medicaid.

Since the August 13, 2015 eligibility determination properly stating insofar as that, based on the information you provided, you, your spouse and child were eligible for an APTC of up to \$933.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

You testified that your spouse was leaving their current employer on November 13, 2015 and would become unemployed. At this time the record does not contain sufficient testimony or documentation to return your case to Marketplace to recalculate you benefits on a yearly or monthly basis. However, please contact the Marketplace when you have sufficient documentation of your change in income.

Decision

The August 13, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You, your spouse and child remain eligible to receive up to \$933.00 monthly of advance premium tax credit (APTC) and cost-sharing reductions.

You, your spouse and child remain ineligible for Medicaid.

Please contact the Marketplace when you have sufficient documentation of your change in income.

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

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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.

Summary

The August 13, 2015 eligibility determination is **AFFIRMED**.

You, your spouse and child remain eligible to receive up to \$933.00 monthly of advance premium tax credit (APTC) and cost-sharing reductions.

You, your spouse and child remain ineligible for Medicaid.

Please contact the Marketplace when you have sufficient documentation of your change in income.

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:

