



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

Notice of Decision

Decision Date: February 18, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004338

[REDACTED]

Dear [REDACTED],

On January 27, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 7, 2015 and May 29, 2015 eligibility determinations.

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 and the NY State of Health number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004338



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 \$182.00 per month in advance premium tax credits, effective October 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions, effective October 1, 2015?

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

Procedural History

According to your Marketplace account, you were determined Medicaid eligible as of March 1, 2014, and were enrolled in a Medicaid Managed Care (MMC) plan from May 1, 2014 through February 28, 2015.

On January 7, 2015, the Marketplace issued a renewal notice that stated you cannot be enrolled in your current MMC plan because you had been redetermined eligible for advance premium tax credits (APTC) and cost-sharing reductions, effective March 1, 2015.

On February 18, 2015, the Marketplace issued a disenrollment notice informing you that your coverage with your MMC plan was ending effective February 28, 2015.

On May 29, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were eligible for APTC of up to \$182.00 per month and cost-sharing reductions, effective July 1, 2015, qualified to enroll outside the open enrollment period and needed to pick a plan no later than July 27, 2015. It also stated that you were not eligible for Medicaid because your reported 2015 household income of \$23,337.60 was greater than the maximum allowable income limit for that program.

On August 17, 2015, the Marketplace prepared a preliminary eligibility determination and found you eligible to receive APTC of up to \$182.00 per month and cost-sharing reductions, effective October 1, 2015. You were also determined to be ineligible for Medicaid.

Also on August 17, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination in that you were ineligible for Medicaid.

On August 18, 2015, the Marketplace issued a notice of eligibility determination that was consistent with the August 17, 2015 preliminary determination. The notice further stated that you qualified to enroll outside the open enrollment period and needed to pick a plan no later than October 16, 2015. It also stated that you were not eligible for Medicaid because your reported 2015 household income of \$23,337.60 was greater than the maximum allowable income limit for that program.

On October 6, 2015, the Marketplace issued a notice of telephone hearing informing you that a hearing had been scheduled on your appeal for October 26, 2015, at 1:00 p.m.

You failed to appear at the hearing scheduled for October 26, 2015, which resulted in your appeal being dismissed.

On October 30, 2015, the Marketplace issued an eligibility determination notice which stated that you were eligible to receive APTC and cost sharing reductions, effective December 1, 2015. The notice further stated that you qualified to enroll outside the open enrollment period and needed to pick a plan no later than December 28, 2015. It also stated that you were not eligible for Medicaid because your reported 2015 household income of \$23,337.60 was greater than the maximum allowable income limit for that program.

On December 11, 2015, the Marketplace received your written request to vacate the dismissal of your appeal for good cause, which was granted.

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On December 21, 2015, the Marketplace issued a Notice of Telephone Hearing informing you that another hearing was scheduled for January 27, 2016.

On January 27, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to 15 days to allow you the opportunity to submit earning statements for July 2015 and August 2015 and to submit your 2015 W-2 Wage and Tax Statement.

On February 11, 2016, the Appeals Unit received a six-page facsimile from you. It consisted of (1) A cover page; (2) A copy of your 2015 W-2 Wage and Tax Statement; and (3) Copies of your July 2015 and August 2015 earning statements. That same day, your six-page facsimile was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

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

- 1) According to your Marketplace application, you elected to receive notices from the Marketplace via standard mail and your mailing address has remained the same since your initial application in January 2014.
- 2) According to your Marketplace account, you expect to file your 2015 federal income tax return as Single, and will claim no dependents on that return.
- 3) You testified that you are appealing being disenrolled from your Medicaid coverage because you did not receive the January 7, 2015 renewal notice or subsequent notices of disenrollment or eligibility redetermination issued by the Marketplace as referenced above. You stated that, as a result, you did not know your MMC plan coverage had ended or that you had been redetermined eligible for APTC and cost-sharing reductions at three separate times throughout the remainder of the year.
- 4) You further testified that you are appealing your eligibility determination for APTC and cost sharing reductions and that you are requesting to be reevaluated for Medicaid coverage.
- 5) As of the August 18, 2015 eligibility determination notice, your application listed an expected income of \$23,337.60. You testified that this amount was close to your actual income.

- 6) You provided a copy of your 2015 W-2 Wage and Tax Statement, which states you received \$25,388.63 in gross earnings that year (Appellant's Exhibit A, p. 2).
- 7) You provided copies of your July 2015 and August 2015 earning statements, which show that you got paid every two weeks as follows:
 - (a) On July 17, 2015, you received \$992.92 in gross earnings for the pay period of June 28, 2015 to July 11, 2015;
 - (b) On July 31, 2015, you received \$880.88 in gross earnings for the pay period of July 12, 2015 to July 25, 2015;
 - (c) On August 14, 2015, you received \$890.87 in gross earnings for the pay period of July 26, 2015 to August 8, 2015; and
 - (d) On August 22, 2015, you received \$1,005.48 for the pay period of August 9, 2015 to August 22, 2015

(Appellant's Exhibit A, pp. 3-6).

- 8) Your application states that you live in Monroe County, New York.

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

Applicable Law and Regulations

Electronic Notices

Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency (Marketplace) must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election (42 CFR §435.918(a)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are 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:

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- 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, IRS Rev. Proc. 2014-62).

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 \$11,670.00 for a one -person household (80 Fed. Reg. 3236, 3237).

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, IRS Rev. Proc. 2014-62).

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)).

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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 \$11,770.00 for a one-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).

Exemptions

A shared responsibility payment may be imposed with respect to a non-exempt individual who does not maintain minimum essential coverage. However, an exemption may relieve an individual from the shared responsibility payment (45 CFR §155.600(a)).

An exemption may be granted to an applicant for at least before, a month or months during which, and the month after, if it is determined the individual(s) experienced circumstances that prevented them from obtaining coverage under a qualified health plan (45 CFR §155.605(g)(1)(iii)).

The Marketplace may adopt an exemption eligibility determination made by the Department of Health and Human Services for an exemption application that is submitted before the start of open enrollment for 2016 (45 CFR §155.625(b)).

Legal Analysis

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the information by which the Marketplace will use to determine an individual's eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

To this end, on January 7, 2015, the Marketplace issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, you were eligible to receive APTC and cost-sharing reductions, effective March 1, 2015.

You stated that you did not receive the renewal notice or the subsequent notices of eligibility redetermination in 2015 and, therefore, did not select or confirm your selection of a qualified health plan after your MMC plan coverage ended February 28, 2015.

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According to your Marketplace account, you elected to receive notices from the Marketplace by standard mail. The record indicates that the renewal notice and the subsequent notices of eligibility redetermination were issued to the address you have listed on your Marketplace account, and there is no indication that any of the notices issued to you were returned to the Marketplace as undeliverable. Therefore, the notices are deemed to have been sent via standard mail and received.

The second issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$182.00 per month.

The application that was submitted on August 17, 2015 listed an annual household income of \$23,337.60 and the eligibility determination relied upon that information.

You are in a one-person household for purposes of this analysis. This is because you expect to file your 2016 income taxes as Single and will claim no dependents on that tax return.

You reside in Monroe County, where the second lowest cost silver plan available for an individual and no dependents through the Marketplace costs \$305.04 per month.

An annual income of \$23,337.60 is 199.98% of the 2014 FPL for a one-person household. At 199.98% of the FPL, the expected contribution to the cost of the health insurance premium is 6.34% of income, or \$123.30 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 (\$305.04 per month) minus your expected contribution (\$123.30 per month), which equals \$181.74 per month. Therefore, rounding up to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$182.00 per month in APTC.

The third issue is whether you were properly found 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 \$23,337.60 is 199.98% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

The fourth issue is whether the Marketplace properly determined that you 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

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modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since \$23,337.60 is 198.28% 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.

The same outcome is true using your earnings as stated on your 2015 W-2 Wage and Tax Statement, which shows you received \$25,388.63 in gross earnings that year, which is 215.71% of the applicable FPL. Similarly, the outcome would be the same using your monthly income of \$1,873.80 in July 2015 and \$1,896.35 in August 2015, since your monthly income for both months is over the allowable income limit of \$1,354.00 for a one-person household. Therefore, you were not eligible for Medicaid using your 2015 actual income or your July 2015 or August 2015 monthly incomes.

Since the August 18, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$182.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

Lastly, you indicated at the hearing that you are concerned about the possibility of being exposed to an IRS tax penalty for not having health insurance in part of 2015. In the interest of justice and administrative efficiency, the Hearing Officer agreed to hear testimony on this issue.

Based on the facts in the record and your testimony, the Appeals Unit finds that the NY State of Health Marketplace did not err in redetermining your eligibility for APTC and cost-sharing reductions as of January 7, 2015, May 29, 2015, August 18, 2015, or October 30, 2015. We further find that the notices were timely sent via standard mail to your mailing address and not returned as undeliverable such that the notices issued on these dates are deemed received. Lacking evidence to the contrary, we do not find your testimony that you did not receive any notices from the Marketplace on these dates to be credible. Therefore, we do not find that the Marketplace delayed or erred in redetermining you eligible for APTC and cost-sharing reductions, effective March 1, 2015, July 1, 2015, or December 1, 2015.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. If both of the following applied in [2015], an individual might qualify for a health coverage exemption:

- In 2015, the individual was not enrolled in coverage in a qualified health plan because of an appealable reason
- The individual's appeal was eventually successful

If these two requirements are accurate, an individual might not have to pay the penalty for the months they were uncovered in 2015. If approved, an exemption generally also covers the month of the Decision itself. It will not cover the month of the Decision itself if the Decision is in the next plan year. For example, an individual did not enroll during 2015 and we issue a decision in 2016. In such case, an exemption would cover only the months during 2015 that the individual was uncovered.

An individual must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, the NY State of Health Marketplace cannot and will not accept exemption applications.

You will find all of the information you need to claim the exemption due to an appeal Decision at www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal. You can also call 1-800-318-2596.

Important: If you file and do not get a response from HHS to your exemption application in time to file your tax return, write the word “pending” in column “c” and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The August 18, 2015 eligibility determination notice is AFFIRMED.

The Marketplace did not delay nor err in redetermining you eligible for APTC and cost-sharing reductions, effective March 1, 2015, July 1, 2015, or December 1, 2015.

Effective Date of this Decision: February 18, 2016

How this Decision Affects Your Eligibility

You were eligible for APTC of up to \$182.00 per month and cost-sharing reductions in 2015.

You were ineligible for Medicaid as of March 1, 2015.

However, you did not select a qualified health plan through the Marketplace in 2015 such that you could not apply APTC or cost-sharing reductions.

You were uninsured through the Marketplace as of February 28, 2015 through December 31, 2015.

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We do not find that the Marketplace delayed or erred in redetermining you eligible for APTC and cost-sharing reductions, effective March 1, 2015, July 1, 2015, or December 1, 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.

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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Summary

The August 18, 2015 eligibility determination notice is AFFIRMED.

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The Marketplace did not delay nor err in redetermining you eligible for APTC and cost-sharing reductions, effective March 1, 2015, July 1, 2015, or December 1, 2015.

You were eligible for APTC of up to \$182.00 per month and cost-sharing reductions in 2015.

You were ineligible for Medicaid as of March 1, 2015.

However, you did not select a qualified health plan through the Marketplace in 2015 such that you could not apply APTC or cost-sharing reductions.

You were uninsured through the Marketplace as of February 28, 2015 through December 31, 2015.

We do not find that the Marketplace delayed or erred in redetermining you eligible for APTC and cost-sharing reductions, effective March 1, 2015, July 1, 2015, or December 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

