



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: AP000000004357

[REDACTED]

Dear [REDACTED],

On November 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 18, 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 Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004357

[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 an advance premium tax credit of up to \$94.00 per month, 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

On August 17, 2015, the Marketplace received two applications for health insurance in which you attested to an expected yearly income of \$49,980.00 in each application. In response to each, the Marketplace prepared a preliminary eligibility determination, stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$94.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR), effective October 1, 2015.

Also on August 17, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not found eligible for Medicaid.

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On August 18, 2015, the Marketplace issued an eligibility determination notice formalizing the findings issued in the August 17, 2015 preliminary eligibility determination. The notice stated that you were eligible for an APTC of up to \$94.00 per month; eligible for CSR, provided you selected a silver-level plan; and ineligible for Medicaid. This eligibility determination was effective October 1, 2015.

On November 24, 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, that is, a letter issued by your employer confirming total income you received during the months of August and September 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.

On November 25, 2015, you provided the above referenced document to the Appeals Unit by facsimile.

The record was closed on November 25, 2015.

Findings of Fact

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of head of household. You will claim your three children as dependents on that tax return.
- 2) The application that was submitted on August 17, 2015 listed annual household income of \$49,980.00, consisting of (1) \$1,050.00 per week of income you receive from your employer, [REDACTED], and (2) \$385.00 per month of deductions in "educator expenses." You testified that while your weekly income can vary based upon the amount of work available, the weekly income you provided was an accurate approximation.
- 3) You testified that you are paid by your employer on a weekly basis, and are issued personal checks for your compensation.
- 4) You testified that your anticipated deduction of approximately \$385.00 per month was not related to "educator expenses," but rather is the amount of tuition you pay for your three children to attend [REDACTED].
- 5) Your application states that you live in Queens County, New York.
- 6) You testified that you are seeking to be redetermined eligible for Medicaid, rather than just a higher advance premium tax credit or increased level of cost sharing reductions.

- 7) You testified that insurance premiums through the Marketplace are unaffordable due, in part, to your monthly expenses, which includes necessities for three children and rent.
- 8) You testified that the income you received during August 2015 was atypical in that you worked some overtime hours, and that the income you received during September 2015 more reasonably reflected your regular monthly income.
- 9) On November 25, 2015, you provided a signed letter issued by your employer, which reflected that you received (1) \$1,246.00 on August 7, 2015, (2) \$1,246.00 on August 14, 2015, (3) \$1,247.00 on August 21, 2015 (4) \$1,247.00 on August 28, 2015, (5) \$1,180.00 on September 4, 2015, (6) \$1,121.00 on September 9, 2015, (7) \$914.50 on September 18, 2015, (8) \$1,180.00 September 25, 2015 and (9) \$1,180.00 on October 2, 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

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).

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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, 3593).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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 \$24,250.00 for a four-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 you were eligible for an advance premium tax credit (APTC) of up to \$94.00 per month.

The application that was submitted on August 17, 2015 listed an annual household income of \$49,980.00, consisting of (1) \$54,600.00 (\$1,050.00 x 52 weeks) you expect to receive from your employer, [REDACTED], and (2) \$4,620.00 (\$385.00 x 12 months) in deductions you expected to claim from your "educator expenses." During the hearing, you clarified that the amount of deductions was related to tuition for your children's daycare enrollment and not out-of-pocket expenses incurred by you as an educator. However, while the nature of the deductions you were claiming in your testimony changed from your application, the amount of deductions remained consistent.

The Marketplace relied upon the figures you provided in your application in issuing the August 18, 2015 eligibility determination.

You are in a four-person household. You expect to file you 2015 income taxes as head of household and will claim your three children as a dependent on that tax return.

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

An annual income of \$49,980.00 is 209.56% of the 2014 FPL for a four-person household. At 209.56% of the FPL, the expected contribution to the cost of the health insurance premium is 6.68% of income, or \$278.08 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 (\$278.08 per month), which equals \$93.67 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$94.00 per month in APTC.

The second issue is whether you were 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 \$49,980.00 is 209.56% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

The third 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 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 \$24,250.00 for a four-person household. Since \$49,950.00 is 206.10% 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.

Since the August 18, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$94.00 per month, eligible for CSR, and ineligible for Medicaid, it is correct and is **AFFIRMED**.

On November 25, 2015, at the Hearing Officer's request, you provided a letter issued by your employer reflecting that you received \$4,986.00 in income during August 2015 and \$4,395.00 during September 2015. The credible evidence of record also reflects that you anticipate taking a total deduction of \$4,620.00 during 2015, which is approximately \$385.00 per month when prorated over course of the year. Accordingly, your income, after applying your anticipated monthly deductions for child care costs, is determined to be \$4,601.00 and \$4,010.00 during August and September, respectively.

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 \$2,788.75 per month. Since your income was \$4,601.00 for August 2015 and \$4,010.00 for September 2015, you did not qualify for Medicaid on the basis of monthly income when you submitted your August 17, 2015 application or revised application in September 2015.

Decision

The August 18, 2015 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$94.00 per month.

You remain eligible for cost-sharing reductions.

You are ineligible for Medicaid.

Please be aware that this decision does not address the validity of the deduction from income you are claiming, that were referenced above. That will be addressed by the IRS at the time you file your tax return for 2015. If you claim more deductions than the amount you are entitled to, and consequentially you receive a greater amount of advance premium tax credits than you otherwise would have received, any discrepancy will be resolved at the time you pay your taxes.

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 August 18, 2015 eligibility determination is **AFFIRMED**.

You remain eligible for an advance premium tax credit of up to \$94.00 per month.

You remain eligible for cost-sharing reductions.

You are ineligible for Medicaid.

Please be aware that this decision does not address the validity of the deduction from income you are claiming, that were referenced above. That will be addressed by the IRS at the time you file your tax return for 2015. If you claim more deductions than the amount you are entitled to, and consequentially you receive a greater amount of advance premium tax credits than you otherwise would have received, any discrepancy will be resolved at the time you pay your taxes.

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:

