



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: AP000000004388

[REDACTED]

Dear [REDACTED],

On November 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 20, 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).

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NY State of Health Number: [REDACTED]
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[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you and your son were eligible to receive an advance premium tax credit of up to \$311.00 per month, effective October 1, 2015?

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

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

Procedural History

On August 19, 2015, the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared in connection with the August 19, 2015 application, which found that you and your son, [REDACTED], were collectively eligible for an advance premium tax credit (ATPC) of up to \$311.00 per month; eligible for cost-sharing reductions (CSR) if you selected a silver-level plan, effective October 1, 2015.

Also on August 19, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you and your son were not found eligible for Medicaid.

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On August 20, 2015, the Marketplace issued an eligibility determination notice formalizing the findings contained in the August 19, 2015 preliminary eligibility determination, stating that you and your son were collectively eligible to receive an APTC of up to \$311.00 per month, eligible for CSR if you selected a silver-level plan, and ineligible for Medicaid. This eligibility determination was effective as of October 1, 2015.

Also on August 20, 2015, the Marketplace issued an enrollment notice confirming enrollment in the Healthfirst Silver plan by you and your son at premium rate of \$369.64 per month, after applying the maximum APTC of \$311.00. The notice also confirmed that coverage for you and your son could begin as early as October 1, 2015, provided the first premium payment was received.

On October 1, 2015, the Marketplace received several earnings statements issued to you by your employer, [REDACTED] [REDACTED] between August 28, 2015 and September 25, 2015.

On November 2, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At your request, A Spanish-language interpreter [REDACTED] also attended the hearing. 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: all earnings statements issued to you and your son by your employer, [REDACTED] during month of August 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 6, 2015, you provided to the Appeals Unit via facsimile: (1) several earnings statements issued to you and your son by [REDACTED] between July 17, 2015 and October 30, 2015 and (2) a letter indicating that you were not able to produce the earnings statements issued to your son by [REDACTED] during the month of August 2015.

Accordingly, the record was closed on November 6, 2015.

Findings of Fact

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

- 1) You testified that you are unmarried, and live with your three children and their mother. You testified that the mother of your children is [REDACTED].
- 2) The application submitted on August 19, 2015 reflects that your son, [REDACTED], is 20 years old and a full-time student.

- 3) You testified, and your August 19, 2015 application reflects, 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. You did not include your children's mother on that application.
- 4) You are seeking insurance for yourself and your son, [REDACTED].
- 5) You testified that neither [REDACTED] nor your two other children are seeking health insurance through the Marketplace, are employed or receive any income.
- 6) The application that was submitted on August 19, 2015 listed annual household income of \$53,560.00, consisting of \$580.00 per month you earn from your employment with [REDACTED] and \$450.00 per month your son earns from his employment with [REDACTED]. You testified that this amount was correct.
- 7) You testified, and your application reflects, that you and your son are each paid on a weekly basis by [REDACTED].
- 8) Your application states that you will not be taking any deductions on your 2015 tax return.
- 9) You live in Kings County, New York.
- 10) You testified that you were seeking Medicaid coverage since the insulin medication you receive for diabetes is more expensive under the qualified health plan you and your son were enrolled in than under Medicaid.
- 11) On November 6, 2015, the Appeals Unit received several earnings statements issued to you by [REDACTED] reflecting your receipt of (1) \$554.00 on July 17, 2015, (2) \$601.15 on July 24, 2015, (3) \$750.00 on July 31, 2015, (4) \$675.15 on August 7, 2015, (5) \$701.25 on August 28, 2015, (6) \$627.20 on September 4, 2015, and (7) \$559.27 on September 11, 2015.
- 12) On November 6, 2015, the Appeal Unit received several earnings statements issued to your son by [REDACTED] reflecting his receipt of (1) \$473.43 on September 4, 2015, (2) \$406.87 on September 18, 2015, (3) \$350.00 on September 18, 2015, (4) \$377.97 on October 16, 2015 and (5) \$443.90 on October 30, 2015.
- 13) On November 6, 2015, the Appeals Unit received a letter indicating that you were not able to produce the earnings statements issued to your son by [REDACTED] during the month of August 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 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:

- 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).

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).

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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 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, and \$27,910.00 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).

Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the 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)).

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For purposes of Medicaid eligibility, the household size of a child claimed by one parent as a dependent and who is living with both parents who are not filing a joint tax return (42 CFR § 435.603(f)(2)(ii)), the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, (3) the child's children and siblings under the age of 19, or 21 if a full-time student (42 CFR § 435.603(f)(3)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your son were eligible for an advance premium tax credit (APTC) of up to \$311.00 per month.

The application that was submitted on August 19, 2015 listed an annual household income of \$53,560.00 and the eligibility determination relied upon that information.

You expect to file you 2015 income taxes as head of household and will claim your three children, including [REDACTED], as dependents on that tax return. The August 19, 2015 application did not include any reference to your children's mother. Accordingly, based on the information provided by you, the Marketplace correctly determined that you and your son are in a four-person household.

You reside in Kings County, New York, where the second lowest cost silver plan available for a primary subscriber and one dependent through the Marketplace costs \$631.98 per month.

An annual income of \$53,560.00 is 224.57% of the 2014 FPL for a four-person household. At 224.57% of the FPL, the expected contribution to the cost of the health insurance premium is 7.20% of income, or \$321.36 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 primary subscriber and one dependent in your county (\$631.98 per month) minus your expected contribution (\$321.36 per month), which equals \$310.62 per month. Therefore rounding to the nearest dollar, you would be eligible for APTC of up to \$311.00 per month.

The second issue is whether you and your son 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 \$53,560.00 is 224.57% 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 and your son 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 for a four-person household (the size of your household) was \$24,250.00. Since \$53,560.00 is 220.87% 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.

Your son has a household of five people, as his mother would be included in his household for the purposes of determining eligibility for Medicaid. You have not submitted income information regarding your son's mother. However, even if her income was \$0, a household income of \$53,560.00 is still 191.90% of the FPL for a five-person household, and your son still would not be eligible for Medicaid.

Since the August 20, 2015 eligibility determination properly stated that, based on the information you provided, you and your son were collectively eligible for up to \$311.00 per month in APTC, eligible for CSR, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation.

You testified that both you and your son experience a fluctuation of weekly income based on overtime, the work available and your son's full-time enrollment in school.

During the hearing, the Hearing Officer directed you to provide all earnings statements issued to you and your son by [REDACTED] during the month of your application, which was August 2015.

The record reflects that you provided to the Appeals Unit only two earnings statements issued to you during the month of August 2015. These statements were issued to you on August 7, 2015 and August 28, 2015. Since the record reflects that you were paid on a weekly basis, you did not provide earnings statements issued to you on August 14, 2015 and August 21, 2015. Furthermore, you provided a letter stating that you were unable to provide any of the earnings statements issued to your son by [REDACTED] during August 2015.

You also failed to produce income documentation for your son's mother, who lives with you.

Accordingly, since we do not have a complete record of the income you, your son, and your son's mother received during August 2015, we are unable to return your case for a review of Medicaid eligibility based on a monthly analysis.

Decision

The August 20, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

You and your son remain collectively eligible for an advance premium tax credit of up to \$311.00 per month.

You and your son remain eligible for cost-sharing reductions.

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 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).

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 20, 2015 eligibility determination is AFFIRMED.

The case is returned to the Marketplace to redetermine your eligibility for financial assistance based on four-person household, and in the case of your son a five-person household, in Kings County, with an expected annual income during 2015 of \$53,560.00.

You and your son remain collectively eligible for an advance premium tax credit of up to \$311.00 per month.

You and your son remain eligible for cost-sharing reductions.

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:

