



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

Notice of Decision

Decision Date: January 22, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004400

[REDACTED]

Dear [REDACTED],

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

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(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 were eligible to receive up to \$295.00 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, as of August 19, 2015?

Procedural History

On August 19, 2015, the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible to receive up to \$295.00 per month in advance premium tax credits, as well as cost-sharing reductions.

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 were not approved for Medicaid.

On August 20, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the August 19, 2015 application, stating that you were eligible for up to \$295.00 per month in advance premium tax credits and cost-sharing reductions, effective October 1, 2015. The notice also

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stated that you were not eligible for Medicaid because your income was over the allowable limit for that program.

On December 2, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you the opportunity to submit proof of your monthly income. On December 8, 2015 you faxed copies of your paystubs for November 2015 to the Appeals Unit and they were marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you expect to file your 2015 taxes with a tax filing status of single.
- 2) The application that was submitted on August 19, 2015 stated that you will not be claiming any dependents on your 2015 tax return.
- 3) You testified that you may claim your mother as a dependent on your 2015 tax return.
- 4) The application that was submitted on August 19, 2015 listed an annual household income of \$19,386.00, you testified that this amount is correct.
- 5) You testified that you have two jobs; you are paid weekly at your first job and paid bi-weekly at your second job.
- 6) You submitted copies of three paystubs from your first job that you received in the month of November 2015. The first paystub has a pay date of November 10, 2015 for a gross pay amount of \$383.37, the second paystub has a pay date of November 17, 2015 for a gross pay amount of \$360.65, and the third paystub has a pay date of November 24, 2015 for a gross pay amount of \$254.35.
- 7) You submitted a copy of a paystub from you first job that you received on December 1, 2015 for a gross pay amount of \$421.57.
- 8) You submitted copies of two checks you received from your second job. The first check has a date of November 5, 2015 for a gross pay amount of \$270.00, and the second check has a date of November 20, 2015 for a gross pay amount of \$270.00.

9) You testified that you will not be taking any deductions on your 2015 tax return.

10) Your application states that you live in Queens County.

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).

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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

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).

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 \$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).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit of up to \$295.00 per month.

The application that was submitted on August 19, 2015 listed an annual household income of \$19,386.00 and the eligibility determination relied upon that information.

Also based on the application that was submitted on August 19, 2015, you are in a one-person household. You expect to file you 2015 income taxes as single and will claim no dependents on that tax return.

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

An annual income of \$19,386.00 is 166.12% of the 2014 FPL for a one-person household. At 166.12% of the FPL, the expected contribution to the cost of the health insurance premium is 4.77% of income, or \$77.06 per month.

The maximum amount of advance premium tax credit 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 (\$77.06 per month), which equals \$294.69 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$295.00 per month in advance premium tax credits.

The second 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 \$19,386.00 is 166.12% of the applicable FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined that you were not eligible 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 \$11,770.00 for a one-person household. Since \$19,386.00 is 164.71% of the 2015 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the August 20, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an advance premium tax credit of up to \$295.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You testified that you have two jobs; you are paid weekly at your first job and paid bi-weekly at your second job. You submitted copies of three paystubs from your first job that you received in the month of November 2015. The first paystub has a pay date of November 10, 2015 for a gross pay amount of \$383.37, the second paystub has a pay date of November 17, 2015 for a gross pay amount of \$360.65, and the third paystub has a pay date of November 24, 2015 for a gross pay amount of \$254.35.

You also submitted copies of two checks you received from your second job. The first check has a date of November 5, 2015 for a gross pay amount of \$270.00, and the second check has a date of November 20, 2015 for a gross pay amount of \$270.00.

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 \$1,354.00 per month.

You did not submit the fourth paystub from your first job that you would have received on November 3, 2015, instead you submitted a paystub that you received on December 1, 2015 for a gross pay amount of \$421.57. However, even with the missing November paystub the documentation you did provide shows that you earned at least \$1,538.37 in November 2015, which is over the \$1,354.00 per month limit and you do not qualify for Medicaid on the basis of monthly income at this time.

At the hearing you testified that you are going to claim your mother as a dependent on your tax return. Your application as it is now contains no information about your mother. If you would like her to be added to your application and thus considered as part of your household for purposes of determining your eligibility for financial assistance, please contact the Marketplace and provide her information.

Decision

The August 20, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 22, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$295.00 in advance premium tax credits and cost-sharing reductions.

You are not eligible for Medicaid.

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).

Please note that this decision only applies to your eligibility for the year 2015. For insurance coverage starting January 1, 2016, you will need to reapply with the Marketplace during the Open Enrollment Period. The Open Enrollment Period for 2016 health coverage is November 1, 2015 to January 31, 2016. For more information on Open Enrollment please go to <https://nystateofhealth.ny.gov/> or contact the Marketplace at the contact information listed in this decision.

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 20, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$295.00 in advance premium tax credits and cost-sharing reductions.

You are not eligible for Medicaid.

Please note that this decision only applies to your eligibility for the year 2015. For insurance coverage starting January 1, 2016, you will need to reapply with the Marketplace during the Open Enrollment Period. The Open Enrollment Period for 2016 health coverage is November 1, 2015 to January 31, 2016. For more information on Open Enrollment please go to <https://nystateofhealth.ny.gov/> or contact the Marketplace at the contact information listed in this decision.

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:

