



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: _____
Appeal Identification Number: AP000000004401/ AP000000004402 (Both Active)



Dear _____

On November 18, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 30, 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with federal regulations 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
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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 not eligible for Medicaid, as of your December 16, 2014 application?

Did the Marketplace properly determine that you were eligible to receive up to \$178.00 per month in advance premium tax credit, effective September 1, 2015?

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

Procedural History

On December 4, 2014, the Marketplace received your initial application for health insurance.

On December 5, 2014 and on December 9, 2014 the Marketplace issued notices stating that you might be eligible for health insurance through New York State of Health but that more information was needed to make a determination. The notice further stated that you needed to submit income documentation to confirm that the information in your application was accurate, or you might lose your eligibility for health insurance and/or financial assistance.

On December 10, 2014 you faxed income documentation to the Marketplace.

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).

On December 16, 2014, your application was updated.

On December 17, 2014 the Marketplace issued a notice of eligibility determination stating that you were eligible to receive up to \$108.00 per month in advance premium tax credits, effective January 1, 2015. You were not eligible for Medicaid or for cost-sharing reductions because your income was over the allowable limit for those programs.

Also on December 17, 2014 your application was updated several times.

On December 18, 2014 the Marketplace issued a notice of eligibility determination stating that you were eligible to receive up to \$258.00 per month in advance premium tax credits, effective January 1, 2015. You were not eligible for Medicaid or for cost-sharing reductions because your income was over the allowable limit for those programs. You were directed to provide income documentation for the period from September 1, 2014 to November 30, 2014, so that the Marketplace could address your request for retroactive Medicaid coverage.

On December 22, 2014, you uploaded some additional income documentation to your Marketplace account.

On March 4, 2015 the Marketplace issued a notice of eligibility determination stating that you were eligible to receive up to \$258.00 per month in advance premium tax credits and newly eligible for cost-sharing reductions, effective January 1, 2015. You were not eligible for Medicaid because your income was over the allowable limit for that program. The notice also stated that you had requested assistance in paying for your medical bills for September 1, 2014 to November 1, 2014 and you were again directed to provide documentation of your income for those months.

On March 13, 2015 you uploaded additional income documentation to your Marketplace account.

On July 3, 2015 the Marketplace issued a notice stating that you might be eligible for health insurance through New York State of Health but that more information was needed to make a determination. The notice further stated that you needed to submit income documentation to confirm that the information in your application was accurate.

On July 10, 2015 additional income documentation you faxed to the Marketplace was uploaded to your Marketplace account.

On July 28, 2015 additional income documentation was uploaded to your Marketplace account.

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).

On July 30, 2015 the Marketplace issued a notice of eligibility determination stating that you were eligible to receive up to \$178.00 per month in advance premium tax credits and eligible for cost-sharing reductions, effective September 1, 2015. You were not eligible for Medicaid because your income was over the allowable limit for that program.

On August 8, 2015 the Marketplace issued a notice stating that your request for help with paying medical bills from April 1, 2015 through June 30, 2015 was denied.

On August 19, 2015, you spoke to the Marketplace's Account Review Unit and appealed the denial of your request for retroactive Medicaid coverage as well as the amount of advance premium tax credits you were eligible for.

On November 18, 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 time to submit a copy of your Social Security benefit letter. On November 20, 2015 you uploaded a copy of your benefit letter to your Marketplace account and it was marked as Appellant's Exhibit #1. The record was closed.

Findings of Fact

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

- 1) The application that was submitted on July 29, 2015 listed an annual household income of \$23,700.64. This amount consisted of \$7,282.00 in unemployment benefits, \$15,150.00 in Social Security benefits and \$878.64 in additional income. You testified that this was an accurate statement of your 2015 annual income.
- 2) You testified that you file your taxes with a tax filing status of single and claim no one as a dependent.
- 3) Your application states that you reside in Monroe County, New York.
- 4) In December 2014, Marketplace issued multiple notices requesting documentation of your income.
- 5) You submitted documentation of your income to the Marketplace on December 10, 2014 and December 22, 2014.
- 6) The Marketplace issued an eligibility determination on December 17, 2014, stating in part that you were not eligible for Medicaid because your

household income of \$29,216.79 was over the allowable income limit of \$16,105.00.

- 7) You testified that you are seeking Medicaid coverage for December 2014 and January 2015.
- 8) You provided evidence that you received a monthly payment from your [REDACTED] annuity in the gross pay amount of \$73.22 on December 1, 2014.
- 9) You testified that you began receiving unemployment benefits in December 2014. You provided evidence that on December 24, 2014 you received two \$331.00 payments and on December 30, 2014 you received one \$331.00 payment from unemployment.
- 10) You testified that you began receiving Social Security benefits in January 2015. You provided a letter stating that beginning December 2014 you will receive \$1,295.00 per month and that Social Security benefits for a given month are paid the following month.

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 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 for Adults between the Ages of 19 and 65

Medicaid through the Marketplace can be provided 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 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 \$178.00 per month, effective September 1, 2015.

The application that was submitted on July 29, 2015 listed an annual household income of \$23,700.64 and the eligibility determination relied upon that information.

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 Monroe County, New York, where the second lowest cost silver plan available for an individual through the Marketplace costs \$305.04 per month.

An annual income of \$23,701.00 is 203.09% of the 2014 federal poverty level (FPL) for a one-person household. At 203.09% of the FPL, the expected contribution to the cost of the health insurance premium is 6.44% of income, or \$127.39 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 (\$305.04 per month) minus your expected contribution (\$127.39 per month), which equals \$177.65 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$178.00 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 \$23,701.00 is 203.09% of the 2014 FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

Since the July 30, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$178.00 per month in advance premium tax credits, and eligible for cost-sharing reductions, it is correct and is **AFFIRMED**.

The third issue is whether the Marketplace properly determined that you were not eligible for Medicaid, as of December 16, 2014.

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).

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.

The Marketplace received your initial application for health insurance on December 4, 2014.

In December 2014, the Marketplace issued multiple notices requesting documentation of your income, which you provided. When the Marketplace did make a determination on your eligibility on December 17, 2014, they based it on your annual household income.

You testified, and the record reflects, that you were seeking Medicaid coverage when you submitted your initial application in December 2014. Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Based on the record, the Marketplace never made a determination of your eligibility for Medicaid effective December 1, 2014.

You testified that in December 2014 you received a payment from an annuity account. You provided evidence that you received a monthly payment from your [REDACTED] annuity payment in the gross pay amount of \$73.22 on December 1, 2014.

You testified that you began receiving unemployment benefits in December 2014. You provided evidence that on December 24, 2014 you received two \$331.00 payments and on December 30, 2014 you received one \$331.00 payment from unemployment.

You also provided a letter stating that beginning December 2014 you will receive \$1,295.00 per month and that Social Security benefits for a given month are paid the following month, that is, January 2015.

Therefore, your monthly income for December 2014 was \$1,066.22 which consisted of your income from your annuity payment and unemployment benefits. Your Social Security benefits should not be included in your monthly income from December 2014 because even though you were eligible, you would not have received the check for December 2014 until January 2015.

Since the Marketplace never made a determination on your eligibility for Medicaid on monthly income in December 2014, your case is RETURNED to the Marketplace for them to do so.

Decision

The July 30, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace to determine your eligibility for Medicaid effective December 1, 2014 based on a one-person household and a December household income of \$1,066.22.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace to issue a determination on your eligibility for Medicaid effective December 1, 2014.

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 July 30, 2015 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace to determine your eligibility for Medicaid effective December 1, 2014 based on a one-person household and a December household income of \$1,066.22.

Your case is being sent back to the Marketplace to issue a determination on your eligibility for Medicaid effective December 1, 2014.

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:

