



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: AP000000004447

[REDACTED]

Dear [REDACTED],

On November 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 25, 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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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 and your spouse were eligible to receive up to \$441.00 per month in advance premium tax credit, effective October 1, 2015?

Did the Marketplace properly determine that you and your spouse were not eligible for cost-sharing reductions, effective October 1, 2015?

Did the Marketplace properly determine that you and your spouse were not eligible for Medicaid, effective October 1, 2015?

Procedural History

On August 24, 2015, the Marketplace received your updated application for health insurance. That day, the Marketplace prepared a preliminary eligibility redetermination finding you and your spouse eligible to share up to \$441.00 per month in advance premium tax credits (APTC) and cost sharing reductions, effective October 1, 2015, and not eligible for Medicaid.

That same day, you spoke with the Marketplace's Account Review Unit and appealed that preliminary eligibility determination insofar as you and your spouse were not eligible for more financial assistance.

On August 25, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the August 24, 2015 preliminary redetermination.

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On November 12, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

- 1) You testified that you and your spouse are appealing your eligibility for financial assistance.
- 2) You testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly.
- 3) You testified that you and your spouse will "probably" claim your son and grandson as dependents on that tax return and will let the Marketplace know if that is what you decide to do.
- 4) The application that was submitted on August 24, 2015 listed annual household income of \$42,120.00, consisting only of your spouse's earnings from her employment. You testified that this amount was correct.
- 5) Your application does not state whether or not you and your spouse will be taking any deductions on your 2015 tax return.
- 6) Your application states that you and your spouse live in Queens County, New York.
- 7) You testified that your spouse's net pay is much less than her gross pay, she supports you, your son, and your grandson, and her net pay goes to pay the rent, utilities, food, and other monthly essential living needs.

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

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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 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% 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

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(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 \$15,930.00 for a two-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).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)). Living expenses, such as rent, utilities, and essential living needs, are not allowable deductions in computing adjusted gross income.

Household Composition

For purposes of 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)).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or

(3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse eligible for up to \$441.00 per month in advance premium tax credits (APTC).

The application that was submitted on August 24, 2015 listed an annual household income of \$42,120.00 and the eligibility determination relied upon that information.

You and your spouse expect to file you 2015 income taxes as married filing jointly. Therefore, you are in a two-person household for purposes of this analysis.

You and your spouse reside in Queens County, New York where the second lowest cost silver plan available for a couple through the Marketplace costs \$743.50 per month.

An annual income of \$42,120.00 is 267.77% of the 2014 FPL for a two-person household. At 267.77% of the FPL, the expected contribution to the cost of the health insurance premium is 8.62% of income, or \$302.56 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 couple in your county (\$743.50 per month) minus your expected contribution (\$302.56 per month), which equals \$440.94 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your spouse to be eligible for up to \$441.00 per month in APTC.

The second issue is whether you and your spouse were properly found to be ineligible for cost-sharing reductions. Cost-sharing reductions are available to a couple who have a household income no greater than 250% of the FPL. Since a household income of \$42,120.00 is 267.77% of the applicable FPL, the Marketplace correctly found you and your spouse to be ineligible for cost sharing reductions.

The third issue is whether the Marketplace properly determined that you and your spouse 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 \$15,930.00 for a two-person household. Since \$42,120.00 is 264.41% of the 2015 FPL, the Marketplace

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properly found you and your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the August 25, 2015 notice of eligibility redetermination properly stated that, based on the information you provided, you and your spouse were eligible for up to \$441.00 per month in APTC, ineligible for cost sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, you testified that you and your spouse might be claiming your son and grandson on your 2015 tax return as dependents. If this is the case, please contact the Marketplace so that your application can be updated accordingly and your eligibility for financial assistance can be redetermined.

If you and your spouse wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for direction.

Decision

The August 25, 2015 notice of eligibility redetermination is AFFIRMED.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

You and your spouse remain eligible for up to \$441.00 per month in advance premium tax credits.

You and your spouse are ineligible for cost sharing reductions.

You and your spouse are ineligible for Medicaid.

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.

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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
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- By fax: 1-855-900-5557

Summary

The August 25, 2015 notice of eligibility redetermination is AFFIRMED.

You and your spouse remain eligible for up to \$441.00 per month in advance premium tax credits.

You and your spouse are ineligible for cost sharing reductions.

You and your spouse are ineligible for Medicaid.

If you and your spouse wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal Marketplace website (www.healthcare.gov) for direction.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

