



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

Notice of Decision

Decision Date: February 16, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004677

[REDACTED]

Dear [REDACTED],

On December 9, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 12, 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 Code of 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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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 \$0.00 per month in advance premium tax credits, effective October 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions, as of September 11, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid, as of September 11, 2015?

Procedural History

On September 11, 2015 the Marketplace received your application for health insurance. That day, the Marketplace prepared a preliminary eligibility determination notice stating that you were eligible for \$0.00 per month in advance premium tax credits.

Also on September 11, 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 September 12, 2015 the Marketplace issued an eligibility determination notice based on your September 11, 2015 application, stating that you were eligible to receive \$0.00 per month in advance premium tax credits. The notice also stated

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that you were not eligible for cost-sharing reductions or Medicaid because your household's income was over the allowable limit for those programs.

On December 9, 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 household's monthly income. No documentation was received within the allotted time frame. The record is now closed.

Findings of Fact

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

- 1) The record reflects that at the time of your September 11, 2015 application for health insurance, you attested to filing your taxes as married filing jointly with your spouse. No dependents were listed on your application.
- 2) The record reflects that at the time of your September 11, 2015 application for health insurance, you attested to being pregnant with one child.
- 3) The record reflects that at the time of your September 11, 2015 application for health insurance, you were the only member of your household seeking insurance through the Marketplace.
- 4) The record reflects that at the time of your September 11, 2015 application for health insurance, you expected to earn \$22,256.00 in income and your spouse expected to earn \$31,200.00 in income for 2015.
- 5) You testified that you stopped working as of September 30, 2015 because you went on maternity leave. You further testified that you intend on quitting your job.
- 6) You testified that you are currently receiving disability from your job.
- 7) You testified that your spouse's income fluctuates in any given month because he is a driver for [REDACTED]
- 8) The Hearing Officer directed you to submit proof of your household's monthly income within 15 days of the hearing. No documentation was received via upload or fax within the allotted time frame.
- 9) You testified that you will not be taking any deductions on your 2015 tax return.
- 10) Your application states that you live in Kings County.

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Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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)).

For purposes of Medicaid eligibility, however, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

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

For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution is 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 (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)).

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

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 \$20,090.00 for a three-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 \$0.00 per month.

The record reflects that at the time of your September 11, 2015 application for health insurance, you had an expected household income of \$53,456.00 and the eligibility determination relied upon that information.

At the time of your September 11, 2015 application, the Marketplace considered you to be in a two-person household because you expected to file your 2015 tax return as married filing jointly with your spouse and at that time you had no tax dependents that you could claim.

Also at the time of your September 11, 2015 application for health insurance, you were the only member of your household seeking insurance through the Marketplace.

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

An annual income of \$53,456.00 is 339.83% of the 2014 FPL for a three-person household. At 339.83% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$425.87 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 (\$425.87 per month). Since your expected contribution amount exceeds the cost of the second lowest cost silver plan, the Marketplace correctly determined you to be eligible for \$0.00 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 \$53,456.00 is 339.84% of the applicable FPL, the Marketplace correctly found you to be not 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 to pregnant women through the Marketplace who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size.

When calculating family size for Medicaid purposes, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver. On the date of your September 11, 2015 Marketplace application, you were pregnant. Consequently, the Marketplace determined your eligibility for Medicaid using a three-person household.

On the date of your application, the relevant FPL was \$20,090.00 for a three-person household. Since \$53,456.00 is 266.08% 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 September 12, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an advance premium tax credit of \$0.00 per month, not 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.

The Hearing Officer directed you to submit proof of your household's monthly income within 15 days of the hearing. No documentation was received via upload or fax within the allotted time frame. Therefore, the Appeals Unit cannot evaluate your eligibility for Medicaid on a monthly basis at this time.

Decision

The September 12, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 16, 2016

How this Decision Affects Your Eligibility

You were eligible for \$0.00 in advance premium tax credits.

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).

You are not eligible for cost-sharing reductions or for Medicaid.

Please note that this decision only applies to your eligibility for the year 2015. Any updates to your account for health insurance coverage beginning January 1, 2016 are not affected by 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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- By fax: 1-855-900-5557

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Summary

The September 12, 2015 eligibility determination notice is **AFFIRMED**.

You were eligible for \$0.00 in advance premium tax credits.

You are not eligible for cost-sharing reductions or for Medicaid.

Please note that this decision only applies to your eligibility for the year 2015. Any updates to your account for health insurance coverage beginning January 1, 2016 are not affected by this decision.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

