



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

Notice of Decision

Decision Date: January 05, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004699

[REDACTED]

Dear [REDACTED],

On December 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 10, 2015 eligibility redetermination.

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).

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Decision Date: January 05, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004699



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 \$136.00 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?

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

Procedural History

On April 10, 2015, the Marketplace issued a notice stating it was time to renew your NY State of Health coverage. The notice explained that, based upon information from Federal and State sources, a decision could not be made about whether or not you qualified for financial assistance. You were asked to provide updated information in your account by May 15, 2015.

On May 12, 2015, your updated application for financial assistance was received. That same day you were found eligible to receive advance premium tax credits in the amount of \$289.00 per month and eligible for cost sharing reductions, effective June 1, 2015. You were also found ineligible for Medicaid. This was because the household income you provided of \$19,939.45 was over the maximum allowable income limit for that program.

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On May 13, 2015, a disenrollment notice was issued ending your coverage under HealthPlus effective May 31, 2015.

On August 3, 2015, the Marketplace received your updated application.

A notice was issued that next day on August 4, 2015, stating more information was needed to make a determination on your application. You were asked to provide documentation by August 19, 2015 verifying your income because the information you provided did not match the information obtained from State and Federal data sources.

On August 6, 2015, you provided a letter from your former employer, dated June 8, 2015, stating your last day of work was June 8, 2015.

On September 8, 2015, the Marketplace received your updated application. The next day, a notice was issued stating more information was needed to make a determination on your application. You were asked to provide documentation by September 24, 2015 verifying your income because the information you provided did not match the information obtained from State and Federal data sources.

On September 10, 2015, you uploaded proof of your receipt of Unemployment Insurance benefits showing an effective date of June 15, 2015 in the weekly benefit amount of \$387.00. You also uploaded a letter from the New York State Department of Labor showing your base period of wages and weekly benefit rate of \$387.00.

That same day, an eligibility determination was made finding you eligible to receive advance premium tax credits in the amount of \$136.00 per month, ineligible for cost sharing reductions, and ineligible for Medicaid, effective October 1, 2015. This eligibility was based on your attested household income of \$32,062.00.

On September 14, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the September 10, 2015 eligibility redetermination as it related to the amount of financial assistance you were found eligible to receive.

A notice of hearing was issued on November 3, 2015 for a scheduled telephone hearing on December 3, 2015.

On December 3, 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 up to 15 days for you provide proof of your received unemployment benefits and income for your employment for the month of September, 2015. The information requested by the hearing officer was not supplied within the 15 day time limit required. Therefore, the record was closed

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and this decision is based on the evidence in the record as of the date of your hearing.

Findings of Fact

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

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of single.
- 2) You testified that you are seeking insurance for yourself.
- 3) The application that was submitted on September 10, 2015 listed annual household income of \$32,062.00. This consists of \$22,000.00 in earned income and Unemployment Insurance benefits in the amount of \$10,062.00.
- 4) On September 10, 2015, you uploaded proof of your receipt of Unemployment Insurance benefits showing an effective date of June 15, 2015 in the weekly benefit amount of \$387.00. This documentation was verified on September 10, 2015 and incorporated into your application.
- 5) You testified that you stopped receiving unemployment benefits in October of 2015.
- 6) Your September 10, 2015 application states that you will not be taking any deductions on your 2015 tax return. Your testimony reflects that this is still accurate.
- 7) Your application states that you live in Kings County, New York.
- 8) The requested documentation showing your earned income for the month of September was not received by the NY State of Health Appeals Unit with the fifteen day allotted time period provided after your December 3, 2015 hearing.

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

Applicable Law and Regulations

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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 \$11,670.00 for a one-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).

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).

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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).

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

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withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

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 were eligible for an advance premium tax credit of up to \$136.00 per month.

The application that was submitted and completed on September 10, 2015 listed an annual household income of \$32,062.00 and the eligibility determination relied upon that information. This consists of \$22,000.00 in earned income and Unemployment Insurance benefits in the amount of \$10,062.00.

On September 10, 2015, you uploaded proof of your receipt of Unemployment Insurance benefits showing an effective date of June 15, 2015 in the amount of a weekly benefit amount of \$387.00. The Marketplace then took that information and incorporated it into your final application and determined your eligibility including that income amount.

You testified that you stopped receiving Unemployment Benefits in October of 2015.

You expect to file you 2015 income taxes as single and will claim no dependents on that tax return. Therefore, you live in a one-person household for purposes of this analysis.

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

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An annual income of \$32,062.00 is 274.74% of the 2014 FPL for a one-person household. At 274.74% of the FPL, the expected contribution to the cost of the health insurance premium is 8.82% of income, or \$235.66 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 an individual in your county (\$371.75 per month) minus your expected contribution (\$235.66 per month), which equals \$136.09 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you are eligible for up to \$136.00 per month in APTC.

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 \$32,062.00 is 274.74% of the applicable FPL, which exceeds the income percentage allowed, the Marketplace correctly found you to be ineligible 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 \$32,062.00 is 272.40% of the 2015 FPL, the Marketplace properly found your household to be ineligible for Medicaid on an expected annual income basis using the information provided in your application.

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 allowed for fifteen days for you to provide income information showing the amount you earned through employment for the month of September, 2015. The requested documentation showing your earned income for the month of September was not received by the NY State of Health Appeals Unit within the fifteen day allotted time period provided after the hearing. Therefore, without evidence to the contrary, your attested income information you provided and which was verified by the Marketplace must be used in determining your eligibility for financial assistance.

Since the September 10, 2015 eligibility determination properly stated that, based on the information you provided, you were found eligible for up to \$136.00 per month in APTC, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is **AFFIRMED**.

If you 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 an application.

Decision

The September 10, 2015 eligibility determination notice is **AFFIRMED**.

Effective Date of this Decision: January 05, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$136.00 per month in APTC.

You are ineligible for cost-sharing reductions.

You are ineligible for Medicaid.

If any of your income information has changed since the time of your hearing you may update your account to reflect this.

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

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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 September 10, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$136.00 per month in APTC.

You are ineligible for cost-sharing reductions.

You are ineligible for Medicaid.

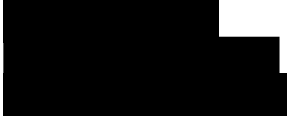
If any of your income information has changed since the time of your hearing you may update your account to reflect this.

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:

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