



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: AP000000004789

[REDACTED]

Dear [REDACTED],

On December 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 24, 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).

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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 were eligible to receive an advance premium tax credit of up to \$285.00 per month, effective November 1, 2015?

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

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

Procedural History

On September 23, 2015, the Marketplace received several applications for health insurance. In the first you attested to an expected yearly income of \$20,340.00. In the second you did not request financial assistance, but review of this second application could not be completed because of technical problems.

On September 24, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the first application received by the Marketplace on September 23, 2015. The notice stated that you were eligible for an advance premium tax credit (APTC) of up to \$285.00 per month, eligible for cost-sharing reductions (CSR) provided you selected a silver-level plan, and ineligible for Medicaid. This eligibility determination was effective November 1,

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2015. You were also found eligible to enroll in a plan outside of the open enrollment period.

Also on September 24, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the September 24, 2015 eligibility determination insofar as you were found ineligible for Medicaid.

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 closed at the end of the hearing.

Findings of Fact

- 1) You testified that your son has lived with you most of the year, because he was diagnosed with cancer for a second time and has been having relationship issues with his girlfriend.
- 2) You testified that your son is 40 years old.
- 3) You testified that you expect to file your 2015 taxes with a tax filing status of single. You will claim no dependents on that tax return since your son will be filing his own tax return this year.
- 4) The application that was submitted on September 23, 2015 listed an expected yearly income of \$20,340.00, consisting of \$1,695.00 you receive in Social Security survivor's benefits each month. You testified that this amount was correct.
- 5) Your application states that you will not be taking any deductions on your 2015 tax return.
- 6) Your application states that you live in Kings County, New York.
- 7) You testified that the plans available through the Marketplace are unaffordable since your expenses for rent, food, and utilities leave only a small amount of discretionary income. You further testified that you receive no financial support from your family.
- 8) You testified that you cannot go without insurance since you have been diagnosed with eye problems, depression and heart issues.
- 9) You testified that you were seeking to become eligible for Medicaid since you were previously found eligible for this program in 2014 and your doctors only accept Medicaid insurance.

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).

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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$285.00 per month.

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The application that was submitted on September 23, 2015 listed an annual household income of \$20,340.00. You attested within this application that your income was comprised solely of \$1,695.00 per month of Social Security survivor's benefits. These Social Security benefits are properly included within your annual household income.

The Marketplace in issuing its determination relied upon that information.

You are in a one-person household. You expect to file you 2015 income taxes as single and will not be claiming any dependents on that tax return.

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

An annual income of \$20,340.00 is 174.29% of the 2014 FPL for a one-person household. At 174.29% of the FPL, the expected contribution to the cost of the health insurance premium is 5.15% of income, or \$87.25 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 (\$87.25 per month), which equals \$284.50 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$285.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$20,340.00 is 174.29% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

The third issue is whether the Marketplace properly determined that you 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 \$11,770.00 for a one-person household. Since \$20,340.00 is 172.81% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the September 24, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to

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\$285.00 per month, eligible for CSR, and ineligible for Medicaid, it is correct and is AFFIRMED.

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

You credibly testified during the hearing that you consistently receive \$1,695.00 per month in Social Security survivor's benefits.

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 \$1,353.55 per month. Since your income was \$1,695.00 for September 2015, you did not qualify for Medicaid on the basis of monthly income when you submitted your September 23, 2015 applications.

Decision

The September 24, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$285.00 per month.

You remain eligible for cost sharing reductions, provided you select a silver-level plan.

You 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:
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- By fax: 1-855-900-5557

Summary

The September 24, 2015 eligibility determination is **AFFIRMED**.

You remain eligible for an advance premium tax credit of up to \$285.00 per month.

You remain eligible for cost sharing reductions, provided you select a silver-level plan.

You are ineligible for Medicaid.

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:

