



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

Notice of Decision

Decision Date: December 29, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004817

[REDACTED]

Dear [REDACTED],

On December 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 30, 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 Code of 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 up to \$69.21 per month in advance premium tax credit, effective January 1, 2015?

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

Did the Marketplace properly determine that you became eligible for Medicaid, effective September 1, 2015?

Procedural History

On November 5, 2014, the Marketplace issued a renewal notice that stated you could remain enrolled during 2015 in the same qualified health plan (QHP) you had in 2014. The notice further stated that you were enrolled in a silver-level QHP with Health Republic Insurance of New York and your coverage would start January 1, 2015. The notice also contained an eligibility redetermination that you were eligible to receive up to \$61.75 per month in advance premium tax credits (APTC) because (1) you were not eligible for Medicaid; and (2) information from federal and state data sources indicated that your household income was between \$16,105.00 and \$46,680.00, which is within the allowable income limit range for APTC based on your household size.

On December 11, 2014, the Marketplace issued an enrollment notice confirming that you were enrolled in a silver-level QHP with Health Republic of New York, effective

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January 1, 2015, and your monthly premium responsibility was \$310.87 after your APTC amount of \$61.75 was applied.

On December 27, 2014, the Marketplace issued a disenrollment notice that your 2014 health plan coverage with your silver-level QHP would end December 31, 2014, which also confirmed that you were automatically re-enrolled in the same QHP as of January 1, 2015.

On September 29, 2015, you updated your Marketplace application and were preliminarily redetermined eligible for Medicaid, effective September 1, 2015.

That same day, you spoke with the Marketplace's Account Review Unit and appealed the previous eligibility determination finding you eligible for APTC from January 1, 2015 to September 30, 2015, because you believe you also should have been Medicaid eligible during this period.

On September 30, 2015, the Marketplace issued a notice of eligibility redetermination, which was consistent with the September 29, 2015 preliminary redetermination.

On December 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to submit supporting documentary evidence.

On December 18, 2015, the Appeals Unit received a 22-page fax from you consisting of (1) A cover page; and (2) A copy of your 2014 U.S. Individual Income Tax Return, Schedules, and Worksheets. That same day, this 22-page fax was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of Single and will not be claiming any dependents on that tax return.
- 2) The application that was updated on November 4, 2014 listed annual household income of \$20,000.00 in earned income. You testified that you thought this was correct at the time, but later learned in September 2015 from your tax preparer that your 2014 income was \$13,000.00 and you could expect it to be comparable for 2015.
- 3) You provided a copy of your 2014 U.S. Individual Income Tax Return (Form 1040A) that showed you earned \$10,689.00 that year and took a tax deduction for tuition and fees of \$2,251.00 resulting in an adjusted gross income of \$8,438.00 (Appellant's Exhibit A, p. 2).
- 4) Your application states that you live in Putnam County, New York.

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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

Timeliness of Appeal

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by the Marketplace (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

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)).

NY State of Health may authorize APTC when it obtains certain necessary attestations from the tax filer, including an attestation as to their expected annual income for the benefit year (45 CFR § 155.305(f)(1)).

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

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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 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).

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).

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). As of your November 4, 2014 application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

Legal Analysis

According to the credible evidence of record, you did not submit an appeal request until September 29, 2015, from the November 5, 2014 notice of eligibility determination. Since your appeal request took place more than 60 days after November 5, 2014, which

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was after the period for a valid appeal had expired, your appeal would ordinarily be considered untimely and dismissed. Notwithstanding, this decision is being issued for your edification.

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$61.75 per month.

In the application that was submitted on November 4, 2014, you attested to an annual household income of \$20,000.00 and the eligibility determination properly relied upon that information.

Since you expect to file you 2015 income taxes as Single with no dependents, you are in a one-person household for purposes of this analysis.

You reside in Putnam County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$372.38 per month.

An annual income of \$20,000.00 is 171.38% of the 2014 FPL for a one-person household. At 171.38% of the FPL, the expected contribution to the cost of the health insurance premium is 5.01% of income, or \$83.50 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 (\$372.38 per month) minus your expected contribution (\$83.50 per month), which equals \$288.88 per month. Therefore, rounding to the nearest dollar, the Marketplace should have determined that you were eligible for up to \$289.00 per month in APTC. However, according to the eligibility determination contained in the November 5, 2014 renewal notice, the Marketplace only found you eligible for up to \$61.75 per month of APTC, which was incorrect.

The second issue is whether you were properly found ineligible 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 \$20,000.00 is 171.38% of the applicable FPL, the Marketplace incorrectly found you to be ineligible for cost sharing reductions.

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 \$11,670.00 for a one-person household. Since \$20,000.00 is 171.38% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

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However, as noted above, the November 5, 2014 notice of eligibility incorrectly determined the amount of APTC to which you were entitled and your eligibility for cost-sharing reductions. Since you paid premiums for eight months and were not afforded the opportunity to apply the full amount of APTC to which you were entitled due to Marketplace error, the amount of tax credits that you took in advance can be reconciled with the tax credits to which you were entitled when you file your 2015 federal income tax return and report your actual annual income. If you are entitled to a different amount of tax credit on your tax return than what you took in advance this year, you may get the difference as an income tax refund or have your tax bill reduced.

Decision

The November 5, 2014 eligibility determination notice will not be disturbed at this time as your request for an appeal was untimely.

The September 30, 2015 eligibility redetermination remains in effect.

Effective Date of this Decision: December 30, 2015

How this Decision Affects Your Eligibility

The Marketplace incorrectly determined the amount of APTC to which you were entitled and to which you were able to apply for eight months. At this late date, any difference in APTC can be reconciled at the time you file your 2015 tax return and report your accurate annual income. If you are entitled to a different amount of tax credit on your tax return than what you took in advance this year, you may get the difference as an income tax refund or have your tax bill reduced.

You became eligible for Medicaid, effective September 1, 2015.

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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 5, 2014 eligibility determination notice will not be disturbed at this time as your request for an appeal was untimely.

The September 30, 2015 eligibility redetermination remains in effect.

The Marketplace incorrectly determined the amount of APTC to which you were entitled and to which you were able to apply for eight months. At this late date, any difference in APTC can be reconciled at the time you file your 2015 tax return and report your accurate annual income. If you are entitled to a different amount of tax credit on your tax return than what you took in advance this year, you may get the difference as an income tax refund or have your tax bill reduced.

You became eligible for Medicaid, effective September 1, 2015.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

