



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

Notice of Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004830

[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 30, 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).

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 up to \$225.00 per month in advance premium tax credit, effective November 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

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

Procedural History

On August 13, 2015, the Marketplace issued a renewal notice stating that it was time to renew your NY State of Health coverage. The notice stated that based upon available information from state and federal data sources, a decision could not be made about whether or not you qualify for financial assistance. You were asked to update the information in your account by September 15, 2015.

On September 4, 2015, your eligibility was redetermined and you were found newly eligible to purchase a qualified health plan at full cost effective October 1, 2015. You qualified to select a health plan outside of open enrollment, but you needed to confirm your selection no later than November 3, 2015.

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On September 5, 2015, a disenrollment notice was issued terminating your coverage under your Medicaid Fee-For-Service plan effective September 30, 2015.

On September 30, 2015, you contacted the Marketplace's Account Review Unit and requested a telephone hearing to dispute the amount of financial assistance you were deemed eligible to receive. You would like to be found eligible for Medicaid.

On December 3, 2015, you had a telephone hearing with a Hearing Officer from the NY State of Health Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

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 head of household. You will claim both of your daughters as dependents on that tax return.
- 2) Your September 30, 2015 application states that you are divorced.
- 3) During the hearing, you testified that you did not receive an official decree of divorce yet from your spouse but that you are in the process of finalizing the separation.
- 4) You indicated on your application that there is a parent living outside of the home.
- 5) You testified that you are seeking insurance for yourself. You are satisfied with the level of assistance your daughters are receiving under Medicaid.
- 6) The application that was submitted on September 30, 2015 listed annual household income of \$28,600.00. You testified that this amount was correct.
- 7) You were disenrolled from your Medicaid Managed Care plan effective September 30, 2015.
- 8) Your application states that you will not be taking any deductions on your 2015 tax return. Your testimony reflects that this is still accurate.
- 9) You reside in Oneida County, New York.

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 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 \$19,790 for a three-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 133% but less than 150% of the 2014 FPL, the expected contribution is between 3.02% and 4.02% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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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).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, a tax filer will be treated as not married at the close of the taxable year if the tax filer:

- (1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- (2) Meets all of the following criteria:
 - a. taxpayer files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child; and
 - b. taxpayer pays more than one half of the cost of keeping up his/her home for the tax year; and
 - c. taxpayer's spouse is not a member of the household during the last 6 months of the taxable year

(26 USC § 7703(a); 26 USC § 7703(b)).

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

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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 \$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).

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)).

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)).

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Legal Analysis

The first issue is whether the Marketplace properly determined that you and your wife were eligible for an APTC of up to \$225.00 per month.

The application that was submitted on September 30, 2015 listed an annual household income of \$28,600.00 and the eligibility determination relied upon that information. Your testimony confirmed that this amount was still accurate at the time of the hearing.

You testified that you live in a three-person household. You expect to file your 2015 income taxes as head of household and will claim your two daughters as dependents on that tax return.

During the hearing you testified that you did not receive an official decree of divorce yet from your spouse but that you are in the process of finalizing the separation. You indicated on your application that there is a parent living outside of the home.

A tax filer will be treated as not married at the close of the taxable year if the tax filer:(1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or (2) Meets all of the following criteria: the taxpayer files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child; and taxpayer pays more than one half of the cost of keeping up his/her home for the tax year; and taxpayer's spouse is not a member of the household during the last 6 months of the taxable year. For purposes of your household size you reside in a three person household for the taxable year based upon your testimony and the record.

You reside in Oneida County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$313.44 per month.

An annual income of \$28,600.00 is 144.52% of the 2014 FPL for a three-person household. At 144.52% of the FPL, the expected contribution to the cost of the health insurance premium is 3.69% of income, or \$87.95 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 (\$313.44 per month) minus your expected contribution (\$87.95 per month), which equals \$225.49 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you are eligible for up to \$225.00 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

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of \$28,600.00 is 144.52% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

The third issue is whether the Marketplace properly determined that you and your daughter 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 \$20,090.00 for a three-person household. Since \$28,600.00 is 142.36% 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.

You testified that you are satisfied with the amount of financial assistance that your daughters were found eligible for under Medicaid, and therefore that is not an issue in dispute for purposes of this appeal.

Since the September 30, 2015 eligibility determination properly stated that, based on the information you provided, you were found eligible for up to \$225.00 per month in APTC, eligible 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 30, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 08, 2016

How this Decision Affects Your Eligibility

You remain eligible for up to \$225.00 in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid.

If You Disagree with this Decision (Appeal Rights)

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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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 30, 2015 eligibility determination notice is **AFFIRMED**.

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You remain eligible for up to \$225.00 in APTC.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid.

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:

