



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

Notice of Decision

Decision Date: January 29, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004873



Dear [REDACTED],

On December 22, 2015, your father, [REDACTED], acting as your authorized representative, appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 1, 2015 eligibility determination and enrollment notices.

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
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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.

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Legal Authority

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

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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 \$331.00 per month in advance premium tax credit, effective February 1, 2015?

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

Did the Marketplace properly determine that you were not eligible for Medicaid, effective February 1, 2015?

Did the Marketplace determine whether or not you were eligible for Medicaid Fee-For-Services as of January 1, 2015 for the month of January 2015?

Procedural History

According to your Marketplace account, in 2014, you were eligible for advance premium tax credits (APTC) and cost-sharing reductions and enrolled in a silver-level qualified health plan (QHP).

On November 3, 2014, the Marketplace issued a renewal notice that said you could not remain enrolled in your current health plan and needed to select a

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different health plan if you wanted coverage in 2015. The notice also contained an eligibility redetermination stating that you qualified for eligibility under Medicaid, effective January 1, 2015.

On December 26, 2014, the Marketplace issued a disenrollment notice confirming that your coverage in the silver-level QHP that you had in 2014 would end effective December 31, 2014.

On January 1, 2015, the Marketplace issued a notice of eligibility redetermination based on updated information in your Marketplace account as of December 31, 2014, and redetermined you newly eligible to receive APTC of \$331.00 per month and cost-sharing reductions and ineligible for Medicaid, effective February 1, 2015.

That same day, the Marketplace issued an enrollment notice confirming your silver-level QHP selection with Fidelis Care and your monthly premium responsibility of \$48.79 after your monthly APTC of \$331.00 was applied. The notice informed you that coverage could start as early as February 1, 2015, but only after you paid your first month's premium.

On March 27, 2015, you updated your Marketplace application and requested help with paying your medical bills for the past three months.

On March 28, 2015 and again on March 31, 2015, the Marketplace issued notices of eligibility redetermination that you were eligible for APTC of \$331.00 per month and cost-sharing reductions and ineligible for Medicaid, effective May 1, 2015.

Also on March 31, 2015, the Marketplace issued an enrollment notice confirming the same information as contained in the January 1, 2015 enrollment notice.

On May 29, 2015, the Marketplace issued a notice of eligibility redetermination that you were eligible to receive APTC of \$331.00 per month and cost-sharing reductions, effective July 1, 2015.

On September 26, 2015, the Marketplace issued an enrollment notice that again confirmed your enrollment as contained in the January 1, 2015 and March 31, 2015 enrollment notices.

On October 6, 2015, your authorized representative spoke with the Marketplace's Account Review Unit and renewed your March 27, 2015 request for help with paying your medical bills for the past three months; specifically, that Medicaid Fee-For-Services be backdated to January 1, 2015 and throughout that month.

On December 22, 2015, your authorized representative 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

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

- 1) According to your Marketplace account, you expect to file your 2015 tax return using a tax filing status of Single and you will not be claiming any dependents on that return.
- 2) According to your Marketplace account as of December 31, 2014, you attested to an expected annual income of \$16,600.00.
- 3) According to your Marketplace account, you submitted an earnings statement for the month of January 2015 on April 3, 2015. Your earnings statement for the pay date of January 26, 2015 shows year-to-date gross earnings of \$1,559.69, consisting of \$1,460.69 in regular pay and \$99.00 in holiday pay. That statement also shows for the pay period of January 8, 2015 to January 21, 2015, your gross earnings were \$829.62 (Appellant's Exhibit A). Your authorized representative testified that this amount was accurate.
- 4) According to your March 27, 2015 updated application, you requested help with paying for your medical bills during the past three months.
- 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 Nassau County, New York.
- 7) Your authorized representative testified that you want Medicaid Fee-For-Services to be made effective for the month of January 2015.
- 8) According to your Marketplace account, no determination in this regard had been made by the Marketplace.

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 2014 is set by federal law at 2.00% to 9.50% 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 benefit year for which coverage is requested" (45 CFR § 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 138% but less than 150% of the 2014 FPL, the expected contribution is between 3.00% and 4.00% 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). 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 December 31, 2014 updated application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593). As of your updated application on March 27, 2015, in which you requested help with paying for medical bills the past three months, 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).

A retroactive authorization will be issued for medical expenses incurred during the three months prior to the month of application for Medicaid, provided the applicant was eligible in the month in which the medical care and services were received (18 NYCRR 360-2.4(c), 42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

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Legal Analysis

Initially, we note that the January 1, 2015 notice of eligibility redetermination that was based on your December 31, 2014 updated application superseded (replaced) the eligibility determination contained within the November 3, 2014 renewal notice. Therefore, the November 3, 2014 eligibility determination is not under review.

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$331.00 per month.

The application that was updated on December 31, 2014 listed an annual household income of \$16,600.00 and the eligibility determination relied upon that information.

You expect to file your 2015 income taxes as Single and will not be claiming any dependents on that tax return. Therefore, you are in a one-person household for purposes of this analysis.

You reside in Nassau County, where the second lowest cost silver plan available for an individual through the Marketplace in 2015 cost \$371.75 per month.

An annual income of \$16,600.00 is 142.25% of the 2014 FPL for a one-person household. At 142.25% of the FPL, the expected contribution to the cost of the health insurance premium is 3.35% of income, or \$46.34 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 (\$46.34 per month), which equals \$325.41 per month. Therefore, rounding to the nearest dollar, the Marketplace should have determined you eligible for up to \$325.00 per month in APTC, but incorrectly determined you to be eligible for up to \$331.00 per month in APTC. However, at this late date, any difference in the amount of APTC that you received versus were entitled to in 2015 can be reconciled when you file your 2015 federal tax return.

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 \$16,600.00 is 142.25% 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 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 December 31, 2014 application, the relevant FPL was \$11,670.00 for a one-person household. Since \$16,600.00 is 142.25% 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.

The same is true using the annual 2015 FPL of \$11,770.00, which was in place as of the date of your January 26, 2015 earning statement. Since \$16,600.00 is 141.04% of the 2015 FPL, you would not have been eligible for Medicaid on an expected annual income basis, using the 2015 FPL either.

Since the January 1, 2015 eligibility redetermination notice properly stated that, based on the information you provided, you were eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED in relevant part. However, since the January 1, 2015 eligibility redetermination notice improperly stated that you were eligible for \$331.00 in APTC, it would ordinarily be modified to state the correct amount of \$325.00 per month as the APTC amount to which you were entitled beginning February 1, 2015. At this late date, however, any reconciliation of the amount of APTC you received versus were entitled to in 2015 can be made at the time that you file your 2015 federal tax return.

Notwithstanding these findings, your authorized representative testified, and the record reflects, that you were seeking retroactive Medicaid coverage when you submitted your updated application on March 27, 2015. The record also reflects that you had been receiving APTC and cost-sharing reductions in 2014 and were again eligible for APTC in 2015. Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Based on the record, the Marketplace never made a determination of your eligibility for Medicaid retroactive to January 1, 2015.

According to the record, your January 26, 2015 earning statement indicates that your gross earnings were \$1,559.69 "year-to-date" (Appellant's Exhibit A). Since only one month in 2015 was about to elapse as of that January 26, 2015 earnings statement, it is reasonable to infer that you received gross earnings in that amount during January 2015. As such, your monthly income for January 2015 was \$1,559.69 for purposes of determining your eligibility for Medicaid that month.

To be eligible for Medicaid in January 2015, your monthly income could not have exceeded 138% of the 2014 FPL maximum allowable monthly income limit of \$1,343.00 per month, which was applicable at the time of your December 31,

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2014 application. The record reflects that your year-to-date earnings received in January 2015 were \$1,559.69, which exceeds the applicable Medicaid maximum income limit and, therefore, you did not qualify for Medicaid in January 2015.

The same is true using the 2015 FPL on a monthly basis. Since 138% of the 2015 FPL is \$1,354.00 and your earnings in January 2015 were \$1,559.69, your January 2015 income also exceeded the 2015 Medicaid maximum monthly income limit that was in place as of your March 27, 2015 updated application. As such, you did not qualify for Medicaid on this basis either.

Decision

The January 1, 2015 eligibility redetermination notice is **AFFIRMED** in relevant part as it relates to your eligibility for cost-sharing reductions and ineligibility for Medicaid, effective February 1, 2015.

Although the January 1, 2015 eligibility redetermination notice misstates the amount of APTC to which you were entitled in 2015, any difference can be reconciled at the time that you file your 2015 federal tax return.

Based on your January 2015 earnings statement, you were not eligible for Medicaid in January 2015.

Effective Date of this Decision: January 29, 2016

How this Decision Affects Your Eligibility

You were eligible for APTC and cost-sharing reductions in 2015 as of February 1, 2015, although the amount of APTC was miscalculated.

The amount of APTC that you should have received can be reconciled when you file your 2015 federal tax return.

You did not qualify for Medicaid in January 2015 because your monthly gross income of \$1,559.69 exceeded the maximum allowable monthly income limits of both the 2014 FPL (\$1,343.00) and 2015 FPL (\$1,354.00) for a one-person household.

You did not have health insurance through the Marketplace in January 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.

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
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- By fax: 1-855-900-5557

Summary

The January 1, 2015 eligibility redetermination notice is **AFFIRMED** in relevant part as it relates to your eligibility for cost-sharing reductions and ineligibility for Medicaid, effective February 1, 2015.

Although the January 1, 2015 eligibility redetermination notice misstates the amount of APTC to which you were entitled in 2015, any difference can be reconciled at the time that you file your 2015 federal tax return.

Based on your January 2015 income document, you were not eligible for Medicaid in January 2015.

You were eligible for APTC and cost-sharing reductions in 2015 as of February 1, 2015, although the amount of APTC was miscalculated.

The amount of APTC that you should have received can be reconciled when you file your 2015 federal tax return.

You did not qualify for Medicaid in January 2015 because your monthly gross income of \$1,559.69 exceeded the maximum allowable monthly income limits of both the 2014 FPL (\$1,343.00) and 2015 FPL (\$1,354.00) for a one-person household.

You did not have health insurance through the Marketplace in January 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

