



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

Notice of Decision

Decision Date: January 14, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004981

[REDACTED]

Dear [REDACTED],

On January 7, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 21, 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 45 Code of Federal Regulations (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 \$197.00 per month in advance premium tax credits, effective December 1, 2015?

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

Did the Marketplace properly determine that you were not eligible for Medicaid as of October 21, 2015?

Procedural History

On October 21, 2015, the Marketplace received your updated application for health insurance. That same day, a preliminary eligibility determination was prepared stating that you were eligible for an advance premium tax credit (APTC) in the amount of \$197.00 and for cost-sharing reductions effective December 1, 2015.

Also on October 21, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not eligible for Medicaid.

On October 22, 2015, the Marketplace issued an eligibility determination notice, based on the October 21, 2015 application, stating that you were eligible to

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receive up to \$197.00 per month in advance premium tax credits, and, if you enrolled in a silver level health plan, eligible for cost-sharing reductions, effective December 1, 2015. The notice further stated that you were not eligible for Medicaid because your income was over the allowable limit for that program.

On January 7, 2016, 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

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

- 1) You testified that you expect to file your 2015 taxes with a tax filing status of single, head of household. You plan to claim your two children as dependents on that tax return.
- 2) Your October 21, 2015 application stated that your annual household income for 2015 was \$37,500.00. You testified that this amount was correct.
- 3) You testified that for 2016 you expect to receive \$39,000.00 in income from your employment.
- 4) You testified that you have household expenses, including rent, utilities, car insurance, and other regular expenses. You submitted a document to the Marketplace on October 23, 2015 outlining these expenses.
- 5) Your application states that you live in Suffolk County.
- 6) You have been receiving Medicaid under "Aid to Continue" pending the outcome of your appeal.

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

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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 \$19,790.00 for a three-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).

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

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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 \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

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)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income.

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$197.00 per month.

The application that was submitted on October 21, 2015 listed an annual household income of \$37,500.00, and the eligibility determination relied upon that information. During the hearing, you testified that the amount you provided in

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your application was correct. However, you also provided testimony of your current expenses, which include rent, electricity and other living expenses, to be considered when calculating your annual household income. Since the Internal Revenue Service rules do not allow living expenses such as rent, utilities, cable and phone to be deducted from the calculation of your adjusted gross income, they cannot be deducted when the Marketplace computes your modified adjusted gross income for APTC purposes. Therefore, the Marketplace correctly determined your household income to be \$37,500.00.

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

You reside in Suffolk County, where the second lowest cost silver plan available to an individual through the Marketplace costs \$379.93 per month.

An annual income of \$37,500.00 is 189.49% of the 2014 FPL for a three-person household. At 189.49% of the FPL, the expected contribution to the cost of the health insurance premium is 5.85% of income, or \$182.81 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 (\$379.93 per month) minus your expected contribution (\$182.81 per month), which equals \$197.12 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$197.00 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 \$37,500.00 is 189.49% 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 application, the relevant FPL was \$20,090.00 for a three-person household. Since \$37,500.00 is 186.66% 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 October 22, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$197 per month in APTC, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

This decision only applies to your eligibility for the year 2015. At the hearing, you testified that you expect to earn \$39,000.00 from your employment in 2016. Therefore, we will RETURN your case to the Marketplace to evaluate your eligibility for financial assistance for the year 2016 based on an expected household income of \$39,000.00, for a three-person household residing in Suffolk County. Please note that the Marketplace may require you to submit supporting documentation of your current financial situation.

Decision

The October 22, 2015 eligibility determination notice is AFFIRMED.

Your application is RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance for 2016 based on an annual household income of \$39,000.00 for a three person-household residing in Suffolk County. The Marketplace may request additional documentation to make a new eligibility determination.

Effective Date of this Decision: January 14, 2016

How this Decision Affects Your Eligibility

You were eligible for \$197.00 per month in advance premium tax credits and cost-sharing reductions, effective December 1, 2015.

You were not eligible for Medicaid.

Your eligibility for financial assistance for 2016 will be determined by the Marketplace. Be advised that you may be required to provide additional documentation in order for the Marketplace to issue a determination on your 2016 eligibility.

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.

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

Summary

The October 22, 2015 eligibility determination is AFFIRMED.

You were eligible for \$197.00 per month in advance premium tax credits and cost-sharing reductions, effective December 1, 2015.

You were not eligible for Medicaid.

Your eligibility for financial assistance for 2016 will be determined by the Marketplace. Be advised that you may be required to provide additional

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documentation in order for the Marketplace to issue a determination on your 2016 eligibility.

Legal Authority

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A Copy of this Decision Has Been Provided To:

