



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

Notice of Decision

Decision Date: January 22, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005031



Dear [REDACTED],

On January 12, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 28, 2015 eligibility determination, November 7, 2015 and November 13, 2015 enrollment notices.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

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 the NY State of Health are:

Did the Marketplace properly determine that you are eligible to receive up to \$255.00 monthly of advance premium tax credits as of October 28, 2015?

Did the Marketplace properly determine that you are eligible for cost-sharing reductions, if you enroll in a silver-level qualified health plan, as of October 28, 2015?

Did the Marketplace properly determine that your children are eligible to enroll in Child Health Plus at no cost as of October 28, 2015?

Did the Marketplace properly determine that you and your children are not eligible for Medicaid as of October 28, 2015?

Did the Marketplace properly determine that your children's Child Health Plus plans should be effective December 1, 2015?

Procedural History

On August 13, 2015 the Marketplace issued a notice stating that the New York State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind of coverage you are eligible to receive. The notice directs you to "update the information on your NY State of Health account by September 15, 2015 so we

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can make an appropriate decision. If you miss the deadline, the financial assistance you are getting now may end.”

On September 17, 2015 the Marketplace issued a notice stating that you and your children are not eligible for financial assistance and cannot enroll in a qualified health plan at full cost through the Marketplace. The notice states that you did not complete your renewal with the required timeframe and your eligibility will end effective September 30, 2015.

On the same day the Marketplace issued a disenrollment notice stating that you and your children’s coverage through the Marketplace will end effective September 30, 2015.

On October 27, 2015 your Marketplace account was updated.

On October 28, 2015 the Marketplace issued an eligibility determination stating that you are eligible for up to \$255.00 of advance premium tax credits and cost-sharing reductions, if you enroll in a silver-level qualified health plan. The notice also stated that your children are eligible to enroll in Child Health Plus at no cost effective as of December 1, 2015.

On the same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the amount of financial assistance you and your children were determined eligible to receive and the effective date of your children’s Child Health Plus coverage.

On November 7, 2015 the Marketplace issued an enrollment notice confirming that your thirteen-year-old child was enrolled in Fidelis Care (Child Health Plus) effective December 1, 2015.

On November 12, 2015 the Marketplace Customer Service Center created a secondary Marketplace account ([REDACTED])

On November 13, 2015 the Marketplace issued an enrollment notice confirming that your nine-year-old child was enrolled in Hudson Health Plan (Child Health Plus) effective December 1, 2015.

On January 12, 2016 you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during the hearing. The record is now complete and closed.

Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself and your two children, ages nine and thirteen.
2. According to your Marketplace account, you plan on filing a 2015 federal income tax return with the tax status of Head of Household (with qualifying individual) and will claim two dependents on that tax return.
3. According to your October 27, 2015 Marketplace application, your 2015 expected annual household income is \$31,600.00.
4. You testified that you receive \$1,000.00 per month in alimony.
5. You testified that you are employed at [REDACTED] and only work from September through June.
6. You testified that you earn \$19,200.00 per year from your employer and earn approximately \$1,920.00 per month.
7. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.
8. You currently reside in Westchester County, NY.
9. You testified and your Marketplace account indicates that you receive notices from the Marketplace via regular mail.
10. No notices sent to the address listed on your Marketplace account have been returned as undeliverable.
11. You testified that you first became aware that your children had been disenrolled from their health plans when you attempted to order medical supplies in October 2015.
12. According to your Marketplace account, you updated your Marketplace account on October 27, 2015.

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 Eligibility:

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2014 federal poverty level; (2) expects to file a tax return

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and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan; 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 the 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).

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 (see 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 \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

Cost-Sharing Reductions Eligibility:

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 advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

Medicaid Eligibility for Adults:

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)).

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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).

Medicaid Eligibility for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Health Administrative Directive 13 OHIP/ADM-03).

Child Health Plus Eligibility

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL.

In an analysis of Child Health Plus 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 was \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

Medicaid/Child Health Plus Renewal:

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).

In general, the Marketplace must review an individual's Medicaid and Child Health Plus eligibility once every twelve months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (42 CFR § 435.916(a)(1), (d)). The Marketplace must make its "redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency" (42 CFR § 435.916(a)(2), 42 CFR § 457.343).

The Marketplace must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, the Marketplace must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

Child Health Plus Enrollment

"A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage" (42 CFR § 457.340(f)).

In New York State, Child Health Plus benefits are furnished "By the first day of the month after the application is received if prior to the 15th of the month or the first day after the subsequent month if after the 15th of the month" (Selection made on Form CS 18, Separate Child Health Insurance Program Non-Financial Eligibility – Citizenship. Sections: 2105(c)(9) and 2107(e)(1)(J) of the SSA and 42 CFR 457.320(b)(6), (c) and (d)).

Legal Analysis

The first issue is whether the Marketplace properly determined you eligible for up to \$255.00 monthly of APTC.

According to the record, you have a three-person tax household. You expect to file your 2015 federal income tax return with the tax status of Head of Household (with qualifying individual) and will claim two dependents on that return.

You reside in Westchester County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$372.40 per month.

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The October 28, 2015 eligibility determination was based on an annual household income of \$31,600.00, which was the amount entered as your total household's expected annual income for 2015 in your October 27, 2015 Marketplace application.

An annual household income of \$31,600.00 equals 159.68% of the 2014 FPL for a three-person household. At 159.68% of the FPL, the expected contribution to the cost of the health insurance premium is 4.47% of income, or \$117.71 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$372.40 per month) minus your expected contribution (\$117.71 per month), which equals \$254.69 per month. Therefore, the Marketplace correctly computed your APTC to be \$255.00 per month.

The second issue is whether the Marketplace properly determined you eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 159.68% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined that you and your children are 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 \$31,600.00 is 157.29% of the 2015 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. 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 \$2,311.00 per month.

Medicaid can be provided through the Marketplace to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size, which is \$2,579.00 per month.

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According to credible record, you are receiving \$1,000.00 monthly in alimony and approximately (\$19,200/10) \$1,920.00 monthly from your employer. Therefore, your October 2015 household income was approximately \$2,920.00, you and your children did not qualify for Medicaid.

The fourth issue is whether the Marketplace properly determined your children eligible to enroll in Child Health Plus at no cost.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the federal poverty level (FPL). Household income below 160% of the FPL is responsible for a \$0.00 Child Health Plus premium payment per month. On the date of your application, the relevant FPL was \$20,090.00 for a three-person household. Since \$31,600.00 is 157.29% of the 2015 FPL, the Marketplace properly found your child to be eligible for Child Health Plus with a \$0.00 per month premium payment.

Since the October 28, 2015 eligibility determination properly stated: you are eligible for up to \$255.00 monthly of APTC; eligible for cost-sharing reductions; you and your children not eligible for Medicaid, and your children are eligible for Child Health Plus at no cost, it is correct and is AFFIRMED.

The fifth issue is whether the Marketplace properly determined that your children's enrollment in their Child Health Plus plan was effective December 1, 2015.

Generally, the Marketplace must redetermine a qualified individual's eligibility for Medicaid or Child Health Plus once every twelve months eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. The Marketplace's August 13, 2015 renewal notice stated that there was not enough information to determine whether you were eligible for financial assistance for health insurance coverage, and that you needed to supply additional information by September 15, 2015 or your financial assistance might end.

Because there was no timely response to this notice, your children were terminated from their health plan through the Marketplace on September 30, 2015.

The record indicates that you receive notices from the Marketplace by mail. Furthermore, the notices were issued to the address you have listed on your Marketplace account, and that there is no indication that any of the notices were returned to the Marketplace as undeliverable.

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On October 27, 2015 you updated the information in your Marketplace account.

In New York State, consistent with federal regulation, if an application for Child Health Plus insurance coverage is received before the 15th of the month, benefits are provided on the first day of the next month.

On November 7, 2015 and November 13, 2015 the Marketplace issued enrollment notices confirming that your children were enrolled in a Child Health Plus plan with an effective date of December 1, 2015.

Since your children were enrolled in a Child Health Plan between November 1, 2015 and November 15, 2015, their Child Health Plus plan properly took effect on December 1, 2015.

Therefore, the Marketplace enrollment notices stating that your children's Child Health Plus enrollment start date is December 1, 2015 are AFFIRMED.

Decision

The October 28, 2015 eligibility determination is AFFIRMED.

The November 7, 2015 enrollment notice is AFFIRMED.

The November 13, 2015 enrollment notice is AFFIRMED.

Effective Date of this Decision: January 22, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$255.00 per month and cost-sharing reductions, if you enroll in a silver-level qualified health plan.

You and your children remain not eligible to enroll in Medicaid.

Your thirteen-year-old child remains enrolled in Child Health Plus (Fidelis Care) with a \$0.00 monthly premium with an enrollment date of December 1, 2015.

Your nine-year-old child remains enrolled in Child Health Plus (Hudson Health) with a \$0.00 monthly premium with an enrollment date of December 1, 2015.

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):

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- 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 October 28, 2015 eligibility determination is AFFIRMED.

The November 7, 2015 enrollment notice is AFFIRMED.

The November 13, 2015 enrollment notice is AFFIRMED.

You remain eligible to receive an advance premium tax credit of up to \$255.00 per month and cost-sharing reductions, if you enroll in a silver-level qualified health plan.

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You and your children remain not eligible to enroll in Medicaid.

Your thirteen-year-old child remains enrolled in Child Health Plus (Fidelis Care) with a \$0.00 monthly premium with an enrollment date of December 1, 2015.

Your nine-year-old child remains enrolled in Child Health Plus (Hudson Health) with a \$0.00 monthly premium with an enrollment date of December 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

