



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: AP000000005033

[REDACTED]

Dear [REDACTED],

On January 8, 2016, 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).

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).

This page intentionally left blank.



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

Decision

Decision Date: January 29, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005033



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 \$269.00 per month in advance premium tax credits, effective November 1, 2015?

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

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

Procedural History

On September 30, 2015, the Marketplace issued a notice of eligibility determination, stating that you were eligible to receive advance premium tax credits of up to \$269.00 per month, and cost-sharing reductions, effective November 1, 2015. It further stated that you were not eligible for Medicaid because your household income of \$26,000.00 was over the allowable income limit for that program.

On October 27, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that determination as it related to your eligibility for additional financial assistance.

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).

On January 8, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence, including a letter from your employer confirming your corrected annual income.

On January 25, 2016, the Marketplace's Appeals Unit did not receive your supporting evidence, and the record was closed.

Findings of Fact

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

- 1) You testified that you are only appealing your individual eligibility determination.
- 2) You testified that you expect to file your 2015 federal income tax return with a tax filing status of Head of Household. You will claim your child as a dependent on that tax return.
- 3) The application that was submitted on September 29, 2015 listed an annual household income of \$26,000.00, consisting of the income you earn from your employment.
- 4) The record reflects that copies of your paystubs were faxed to the Marketplace, and were available for review on September 21, 2015, indicating that you earned \$500.00, before taxes were deducted, on August 21, 2015, September 4, 2015, September 11, 2015, and September 19, 2015. You testified that the income listed in these paystubs was inaccurate and prepared in error by your employer's accountant. You testified that you faxed a letter to the Marketplace from your employer attesting to this error, as well as corrected paystubs.
- 5) The record reflects that the Marketplace received your documents via facsimile on October 27, 2015, which included a cover sheet, and four paystubs indicating that you earned \$400.00 on September 25, 2015, October 2, 2015, October 9, 2015, and October 16, 2015. You testified that these paystubs are an accurate reflection of your income because you typically receive \$400.00 weekly. You were requested to submit the letter from your employer attesting to the accounting error, however, it was not received by the Marketplace's Appeals Unit prior to the closing of the record.
- 6) Your application states that you will not be taking any deductions on your 2015 tax return.

- 7) Your application states that you live in Queens County.
- 8) The record reflects that your application for health insurance has not been renewed for the 2016 coverage year.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are 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 \$15,730.00 for a two-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).

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). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-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).

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)).

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).

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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for advance premium tax credits (APTC) of up to \$269.00 per month.

The application that was submitted on September 29, 2015 listed an annual household income of \$26,000.00 and the eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2015 federal income tax return as Head of Household and will claim your child as a dependent on that tax return.

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

An annual income of \$26,000.00 is 165.29% of the 2014 federal poverty level (FPL) for a two-person household. At 165.29% of the FPL, the expected contribution to the cost of the health insurance premium is 4.73% of income, or \$102.46 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 (\$102.46 per month), which equals \$269.29 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$269.00 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 \$26,000.00 is 165.29% 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

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).

\$15,930.00 for a two-person household. Since \$26,000.00 is 163.21% 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.

However, 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 \$1,832.00 per month.

According to the documents available for review in your Marketplace account, you earned \$500.00 on September 4, 2015, \$500.00 on September 11, 2015, \$500.00 on September 19, 2015, and \$400.00 on September 25, 2015, before taxes were deducted. Therefore, you had a household income of \$1,900.00 for the month of September 2015. Although you testified that your income as listed in the paystubs for the month of September 2015 was inaccurate, you were requested to submit a letter from your employer attesting to the error. This documentation was not received by the Marketplace's Appeals Unit, and the error could not be corroborated.

Since your income was \$1,900.00 for September 2015, as indicated by the documents submitted to the Marketplace, you did not qualify for Medicaid on the basis of monthly income when you submitted your September 29, 2015 application.

Since the September 30, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$269.00 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.

The record reflects that your application for health insurance has not been renewed for the 2016 coverage year. If you wish to be considered for health insurance coverage in 2016, you must submit an updated application.

Decision

The September 30, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 29, 2016

How this Decision Affects Your Eligibility

You were eligible for up to \$269.00 in APTC for the remainder of the 2015 coverage year.

You were eligible for cost-sharing reductions for the remainder of the 2015 coverage year.

You were ineligible for Medicaid as of September 30, 2015.

If you wish to be considered for health insurance coverage in 2016, you must submit an updated application.

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

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).

- 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**.

You were eligible for up to \$269.00 in APTC for the remainder of the 2015 coverage year.

You were eligible for cost-sharing reductions for the remainder of the 2015 coverage year.

You were ineligible for Medicaid as of September 30, 2015.

If you wish to be considered for health insurance coverage in 2016, you must submit an updated application.

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:

