



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: AP000000005143

[REDACTED]

Dear [REDACTED],

On January 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 11, 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 Regulations 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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NY State of Health Number: [REDACTED]
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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 for advance premium tax credit of \$0.00 per month, effective December 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions, effective December 1, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid as of November 10, 2015?

Procedural History

On November 10, 2015, the Marketplace received your application for health insurance. That same day, a preliminary eligibility determination was prepared finding that you were eligible to enroll in a qualified health plan through the Marketplace and receive tax credits to help pay for the cost of your insurance.

Also on November 10, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to the amount of tax credit to which you were entitled.

On November 11, 2015, the Marketplace issued an eligibility determination notice consistent with the November 10, 2015 preliminary determination. It also stated that you were not eligible for cost-sharing reductions or Medicaid because your reported household income was over the maximum allowable income limits for each of these programs.

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On January 20, 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 supports the following findings of fact:

- 1) According to your Marketplace account, you had health insurance coverage with a Medicaid Managed Care plan through the Marketplace that ended November 30, 2015.
- 2) You testified that you are only appealing your eligibility for financial assistance.
- 3) According to your Marketplace account, you expected to file your 2015 taxes with a tax filing status of married filing jointly. You will claim your son as a dependent on that tax return.
- 4) The application that was submitted on November 10, 2015 listed annual household income of \$54,947.88. You testified that this amount was incorrect and that your spouse was never employed by [REDACTED], which income was calculated at \$2,238.99 per month according to the Marketplace system and included in your household's annual income.
- 5) You testified and submitted a November 20, 2015 letter from your employer that stated you work part-time at \$9.00 per hour on average of 21 hours per week for an annual income of approximately \$10,296.00.
- 6) According to your Marketplace account and your testimony, your spouse had income from previous employment with [REDACTED] of \$6,300.00 in 2015, and from current employment with [REDACTED] of \$5,760.00, which equals \$12,060.00 in annual income for 2015.
- 7) Your application states that you will not be taking any deductions on your 2015 tax return.
- 8) Your application states that you live in Saratoga 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 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, November 20, 2015, that was the 2015 FPL, which is \$20,090.00 for a three -person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 250% but less than 300% of the 2015 FPL, the expected contribution is between 8.10% and 9.56% 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

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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).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Financial eligibility for Medicaid for applicants receiving Medicaid benefits, financial eligibility may be based either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year (42 CFR § 435.603(h)(2), *but see* SPA 13-0055-MM3, as approved March 19, 2014).

People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of \$0.00 per month.

The application that was submitted on November 10, 2015, listed an annual household income of \$54,947.88 and the eligibility determination relied upon that information.

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You are in a three-person household for purposes of this analysis. This is because you expect to file your 2015 income taxes as married filing jointly and to claim your son as a dependent on that tax return.

You reside in Saratoga County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$331.49 per month.

An annual income of \$54,947.88 is 273.51% of the 2015 FPL for a three-person household. At 273.51% of the FPL, the expected contribution to the cost of the health insurance premium is 8.79% of income, or \$402.49 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 (\$331.49 per month) minus your expected contribution (\$402.49 per month), which equals -\$71.00 per month. Since your contribution exceeds the cost of the second lowest cost silver plan, the Marketplace correctly determined you to be eligible for \$0.00 per month in APTC.

The second issue is whether you were properly found ineligible 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 \$54,947.88 is 273.51% of the applicable FPL, the Marketplace correctly found you to be ineligible 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 \$54,947.88 is 273.51% 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 November 11, 2015 eligibility determination notice properly stated that, based on the information in your Marketplace account as of November 10, 2015, you were eligible for \$0.00 per month in APTC, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, at the hearing the Hearing Officer learned that the income used to determine your eligibility for financial assistance in 2015 was incorrect and overstated. According to the credible evidence of record, your household's annual income in 2015 was \$22,356.00, consisting of your earnings of \$10,296.00, and

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your spouse's combined earnings from his two employments that year of \$12,060.00. You credibly testified that your spouse had never worked for [REDACTED], such that the income calculated by the Marketplace for 2015 from this employment and included in your household's income in determining your eligibility for financial assistance was in error.

Based on the credible evidence of record, it is reasonable to infer that you earned \$756.00 per month during November and December 2015 (\$189.00 per week X 4 weeks); and that your spouse earned \$1,260.00 per month during November and December 2015 (\$315.00 per week X 4 weeks), which equals \$2,016.00 per month.

Therefore, your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance as of December 1, 2015, using a 2015 annual income of \$22,356.00 for a three-person household, or a monthly income of \$2,016.00 for a three-person household, for an individual residing in Saratoga County.

Decision

The November 11, 2015 eligibility determination notice was correct when made and is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance as of December 1, 2015, using a 2015 annual income of \$22,356.00 for a three-person household, or a monthly income of \$2,016.00 for a three-person household, for an individual residing in Saratoga County.

Effective Date of this Decision: January 29, 2016

How this Decision Affects Your Eligibility

You were eligible for \$0.00 in APTC in 2015.

You were ineligible for cost-sharing reductions in 2015.

You were ineligible for Medicaid based on your household income as listed in your November 10, 2015 Marketplace application.

Your case is being returned to the Marketplace to redetermine your eligibility for financial assistance as of December 1, 2015, using the income information obtained at hearing and stated above.

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The Marketplace will issue a notice of eligibility redetermination accordingly.

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

Summary

The November 11, 2015 eligibility determination notice was correct when made and is AFFIRMED.

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Your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance as of December 1, 2015, using a 2015 annual income of \$22,356.00 for a three-person household, or a monthly income of \$2,016.00 for a three-person household, for an individual residing in Saratoga County.

You were eligible for \$0.00 in APTC in 2015.

You were ineligible for cost-sharing reductions in 2015.

You were ineligible for Medicaid based on your household income as listed in your November 10, 2015 Marketplace application.

Your case is being returned to the Marketplace for it to redetermine your eligibility for financial assistance as of December 1, 2015, using the income information obtained at hearing and stated above.

The Marketplace will issue a notice of eligibility redetermination accordingly.

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:

