



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

Notice of Decision

Decision Date: January 27, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005181

[REDACTED]

Dear [REDACTED],

On January 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 14, 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 your oldest daughter was eligible to receive \$0.00 per month in advance premium tax credits and eligible for cost-sharing reductions, effective December 1, 2015?

Did the Marketplace properly determine that your daughter was not eligible for Medicaid based as of November 13, 2015?

Procedural History

On November 13, 2015 the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared stating that your oldest daughter was eligible to receive \$0.00 in advance premium tax credits (APTC) and eligible for cost-sharing reductions, effective December 1, 2015.

Also on November 13, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your daughter's eligibility for financial assistance.

On November 14, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the November 13, 2015 application, stating that your daughter was eligible to receive \$0.00 in APTC and eligible for cost-sharing reductions, effective December 1, 2015. This eligibility determination also

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stated that your daughter was not eligible for Medicaid because the household income was above the allowable income limit for that program.

On January 21, 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) You testified that you are appealing only with regard to your older daughter's eligibility.
- 2) The record reflects that your daughter was 19 years old at the time of your November 2015 application.
- 3) You testified that you expected 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.
- 4) The application that was submitted on November 13, 2015 listed an annual household income of \$35,516.01 from employment. You testified that this amount was correct.
- 5) The record reflects that you will not be taking any deductions on your 2015 tax return, and you testified that this was accurate.
- 6) You testified that you have a lot of household expenses.
- 7) You testified that you live in Richmond County.
- 8) Your Marketplace account reflects that your daughter is currently enrolled in the Essential Plan, effective January 1, 2016.

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

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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 \$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).

If a qualified health plan is offered through the Marketplace in any level of coverage, the Marketplace must also offer a qualified health plan in which the only enrollees are individuals who, as of the beginning of a plan year (whether calendar year or otherwise), have not attained the age of 21 (42 U.S. Code §18022(f)).

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).

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).

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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that your oldest daughter was eligible for an APTC of \$0.00 per month.

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Your oldest daughter is in a three-person household. You expect to file you 2015 income taxes as single, head of household and will claim her and another daughter as dependents on that tax return.

In the application that was submitted on November 13, 2015, you attested to an expected yearly income of \$35,516.01 and the eligibility determination relied upon that information. During the hearing, you testified that the amount you provided in your application was correct. However, you have a lot of household expenses that you would like considered. Since you did not testify to any expenses than can be deducted by the Internal Revenue Service for tax purpose, they cannot be deducted when the Marketplace computes your modified adjusted gross income for APTC purposes. Furthermore, since you are claiming your daughter as a dependent, your income is counted as part of her household's income. Therefore, the Marketplace correctly determined your daughter's household income to be \$35,516.01.

Your daughter resides in Richmond County. At the time of your application, your daughter was under the age of 21 and thus the premium for a child only plan was used to calculate her eligibility. The second lowest cost silver plan available for a child through the Marketplace in Richmond County costs \$153.43 per month.

An annual income of \$35,516.00 is 179.46% of the 2014 FPL for a three-person household. At 179.46% of the FPL, the expected contribution to the cost of the health insurance premium is 5.39% of income, or \$159.53 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 a child in your county (\$153.43 per month) minus your expected contribution (\$159.53 per month). Since the expected contribution exceeds the amount of the second lowest cost silver plan, the Marketplace properly determined your oldest daughter to be eligible for \$0.00 per month in APTC.

The second issue is whether your oldest daughter was 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 \$35,516.00 is 179.46% of the applicable FPL, the Marketplace correctly found your oldest daughter to be eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined that your oldest daughter was 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 \$35,516.00 is 176.78% of the

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2015 FPL, the Marketplace properly found your oldest daughter to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the November 14, 2015 eligibility determination properly stated that, based on the information you provided, your oldest daughter was eligible for \$0.00 per month in APTC, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

Decision

The November 14, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 27, 2016

How this Decision Affects Your Eligibility

Your daughter was eligible for \$0.00 in APTC effective December 1, 2015.

Your daughter was eligible for cost-sharing reductions effective December 1, 2015.

Your daughter was not eligible for Medicaid based on the information in your November 13, 2015 application.

This decision has no effect on your daughter's eligibility for the Essential Plan effective January 1, 2016, and has no effect on her enrollment in the Essential Plan effective January 1, 2016.

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

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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 14, 2015 eligibility determination notice is **AFFIRMED**.

Your daughter was eligible for \$0.00 in APTC effective December 1, 2015.

Your daughter was eligible for cost-sharing reductions effective December 1, 2015.

Your daughter was not eligible for Medicaid based on the information in your November 13, 2015 application.

This decision has no effect on your daughter's eligibility for the Essential Plan effective January 1, 2016, and has no effect on her enrollment in the Essential Plan effective January 1, 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

