



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

Notice of Decision

Decision Date: February 12, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005311



Dear [REDACTED],

On February 1, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 14, 2015 eligibility redetermination.

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).

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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 \$169.00 per month in advance premium tax credit?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

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

Procedural History

On November 14, 2015, the Marketplace issued an eligibility determination finding you are eligible to receive up to \$169.00 advance premium tax credits per month. The notice also stated that you were not eligible for cost-sharing reductions and Medicaid because your household income exceeded the income limit.

On November 21, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the November 14, 2015 eligibility determination as it related to the amount of financial assistance you were found eligible to receive.

On February 1, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing

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and closed at the conclusion of 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.
2. You testified that you plan to file your 2015 U.S. Individual Tax Return with the tax filing status of single and will not be claiming any dependents on that return.
3. According to your November 13, 2015 Marketplace application, you have an expected yearly income of \$29,596.00.
4. You testified that you receive \$1,708.00 per month in Social Security Disability Benefits and \$350.00 from the [REDACTED] every two weeks.
5. You currently reside in Queens County, New York.
6. You testified that the amount of financial assistance you were determined eligible for is not affordable.
7. You testified that you were diagnosed with breast cancer in 2012 and a brain tumor in 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

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:

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- 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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 250% but less than 300% of the 2014 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).

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 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

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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 \$11,770.00 for a one-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)).

Hardship 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)).

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)).

Treatment for Breast and/or Cervical Cancer

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).

People who cannot get Medicaid through the Marketplace can still apply for Medicaid through New York State's Medicaid Cancer Treatment Program while they require treatment for breast and/or cervical cancer (see 42 US § 1396a(a)(10)(A)(ii)(XVIII); NY Soc. Serv. Law §§ 366(1)(c)(7), 366(4)(d)).

People may qualify for this program if they:

1. are under 65 years of age,
2. have been screened for breast and/or cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program
3. need treatment for breast or cervical cancer, and
4. are not otherwise covered under creditable coverage as defined in the federal public health service act

(NY Soc Serv Law § 366.4(d); see *also* 42 USC § 1396a(aa)).

In this context, "creditable coverage" includes coverage such as that provided by group health plans; public health plans; health insurance plans; Medicaid provided on another basis; Medicare; programs for members of the military, military dependents, and members of the Peace Corps; and programs of the Indian Health Service or tribal organizations (see 42 USC §§ 1396a(aa), 300gg(c)).

Applications for New York State's Medicaid Treatment Cancer Program can be submitted through the Cancer Services Program (the Marketplace and your local Department of Social Services cannot take this application).

If you think the Cancer Services Program can help you or someone you know,

1. Check the Department of Health website at: <http://www.health.ny.gov/diseases/cancer/>, or
2. Check the Public Health Program List, or
3. Call the Cancer Services Program at 1-866-442-2262.

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$169.00 per month.

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The application that was submitted on November 13, 2015 listed an annual household income of \$29,596.00 and the eligibility determination relied upon that information. You testified and your application reflects that you expect to receive \$1,708.00 from Social Security Disability benefits per month and \$350.00 from the [REDACTED] every two weeks.

You testified that you expect to file your 2015 income taxes with the tax status of single and will claim no dependents. Therefore, you have a one-person tax household.

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 \$29,596.00 is 253.61% of the 2014 Federal Poverty Level (FPL) for a one-person household. At 253.61% of the FPL, the expected contribution to the cost of the health insurance premium is 8.21% of income, or \$202.49 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 (\$371.75 per month) minus your expected contribution (\$202.49 per month), which equals \$169.26 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$169.00 per month in APTC.

The second issue is whether you were properly found not 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 \$29,596.00 is 253.61% of the applicable FPL, the Marketplace correctly found you to be not 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 \$11,770.00 for a one-person household.

Since \$29,596.00 is 251.45% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information you attested to in your application and testified to during your hearing.

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 \$1,354.00 per month. According to your November 13, 2015, Marketplace application, you are receiving \$1,708.00 monthly in Social Security Disability Benefits and \$350.00 in earned income every two weeks. Therefore, your November 2015 household income was approximately (\$1708.00 (+) \$700.00) \$2,408.00 and you did not qualify for Medicaid.

Since the November 14, 2015 eligibility determination properly stated that you are eligible for APTC of up to \$169.00 per month, not eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

Decision

The November 14, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: February 12, 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 \$169.00 per month.

You remain not eligible for cost-sharing reductions and Medicaid.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

If you think the Cancer Services Program can help you or someone you know,

- 1) Check the Department of Health website at:
<http://www.health.ny.gov/diseases/cancer/>, or
- 2) Check the Public Health Program List, or
- 3) Call the Cancer Services Program at 1-866-442-2262.

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 14, 2015 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$169.00 per month.

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You remain not eligible for cost-sharing reductions and Medicaid.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an 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:

