



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

Notice of Decision

Decision Date: May 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005410

[REDACTED]

Dear [REDACTED],

On April 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 6, 2015 eligibility determination.

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 Account ID: [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 and your spouse are only eligible to purchase a qualified health plan at full cost through NY State of Health as of December 6, 2015?

Did the Marketplace properly determine that your children were eligible to enroll in a full cost Child Health Plus plan as of December 6, 2015?

Procedural History

On December 2, 2015, your Marketplace Account was updated. The Marketplace rendered a preliminary eligibility determination that you and your spouse were found eligible to purchase a qualified health plan at full cost. Your children were determined eligible to enroll through Child Health Plus at full cost.

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 family were determined eligible to receive.

On December 6, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse were eligible to purchase a qualified health plan at full cost through NY State of Health. The notice also stated your children were eligible to enroll through Child Health Plus at full cost, effective January 1, 2016.

On April 7, 2016 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken and 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 you, your spouse and two children, ages 14 and 18.
2. You testified that you plan on filing a 2016 federal income tax return, with the tax status of married filing jointly, and will claim your two children as dependents on that return.
3. According to your December 2, 2015 Marketplace application, your 2016 expected annual household income is \$100,100.01. Your spouse's expected yearly income was \$88,400.01 and your 18-year-old child's expected income was \$11,700.00.
4. You testified that you are currently employed.
5. You testified that you earn approximately \$3,400.00 bi-weekly, and your expected yearly income will be similar to your spouse's expected yearly income.
6. You testified that you expected your 18-year-old son to earn approximately \$3,800.00 in 2016.
7. You currently reside in Nassau County, NY.

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 federal 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)).

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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 2015 FPL, which is \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

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).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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 for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health L. § 2511(2)(a)-(e))

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in Child Health Plus depends upon the child's family household income (N.Y. Pub. Health L. § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the federal poverty level. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (N.Y. Pub. Health L. § 2510(9)(d)).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan QHP. Such an exemption may be granted if that person can show that 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

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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 qualified health plan (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)).

Legal Analysis

The first issue under review is whether or not the Marketplace properly determined that you and your spouse are not eligible for financial assistance through New York State of Health.

According to the record, you expect to file your 2016 federal income tax return, with the tax status of married filing jointly, and will claim your two children as dependents on that return. Therefore, you are in four-person tax household.

Individuals in a four-person tax household may qualify for an advance premium tax credit (APTC) if their annual household income is between \$33,465.00 (138% 2015 FPL) and \$97,000.00 (400% 2015 FPL).

According to your December 2, 2015, Marketplace application, your 2016 expected income is \$100,100.01. An annual household income of \$100,100.01 equals 412.78% of the 2015 FPL for a four-person household. Therefore, because your 2016 expected yearly income exceeds \$97,000.00, the Marketplace correctly determined that you and your spouse were not eligible for APTC.

The second issue is whether the Marketplace properly determined your children were eligible to enroll in full cost Child Health Plus plan.

A child who meets the eligibility requirements for CHP coverage may be eligible for subsidized premiums if the household income is at or below 400% of the FPL. No payments are required at a household income lower than 160% of the FPL, and premiums range from \$9.00 per month to \$60.00 per month between 160% and 400% of the FPL.

Since a household income \$100,100.01 is 412.78% of the 2015 FPL, the Marketplace properly determined that your children were eligible to enroll in a full cost Child Health Plus plan.

Since the December 6, 2015 eligibility determination properly stated that, based on the information provided: that you and your spouse were eligible to enroll in a qualified health plan at full cost through, and your children were eligible to enroll in a full cost Child Health Plus plan, it is **AFFIRMED**.

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Based on the available record, the \$100,100.01 household income attested to in your December 2, 2015 Marketplace application does not accurately represent your 2016 household income.

You testified that you are currently employed and earn approximately \$3,400.00 bi-weekly. Furthermore, you credibly testified that you expect your 18-year-old child to earn approximately \$3,800.00 in 2016, not \$11,770.00.

Since your expected 2016 income was not included in your December 2, 2015 Marketplace application, your household income is more than the amount attested to in that application. Therefore, you, your spouse and children remain not eligible for financial assistance through NY State of Health.

Decision

The December 6, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: May 4, 2016

How this Decision Affects Your Eligibility

You and your spouse remain eligible to enroll in a qualified health plan at full cost through NY State of Health.

Your children remain eligible to enroll in Child Health Plus at full cost through NY State of Health.

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 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.

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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:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The December 6, 2015 eligibility determination is **AFFIRMED**.

You and your spouse remain eligible to enroll in a qualified health plan at full cost through NY State of Health.

Your children remain eligible to enroll in Child Health Plus at full cost through NY State of Health.

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 Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

