



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

## Notice of Decision

Decision Date: April 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005828



Dear [REDACTED],

On March 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 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: April 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005828



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the NY State of Health properly determine that you were eligible to receive up to \$211.00 per month in advance payments of the premium tax credit (APTC), effective February 1, 2016?

Did the NY State of Health properly determine that you were eligible for cost-sharing reductions, effective February 1, 2016?

Did the NY State of Health properly determine that you were no longer eligible for Medicaid?

## Procedural History

On December 11, 2014, an enrollment confirmation notice was issued confirming your enrollment in a Medicaid Managed Care plan effective January 1, 2015.

On October 23, 2015, a renewal notice was asking for more information in order to make a determination about whether or not you qualify for financial assistance. You were asked to update the information in your NY State of Health account by December 15, 2015 so a decision could be made. If you missed that deadline the financial assistance you were receiving could end.

On December 29, 2015 the NY State of Health received your updated application for renewal. That day, a preliminary eligibility determination was prepared stating

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).

that you were eligible to receive up to \$211.00 in APTC and cost-sharing reductions.

Also on December 29, 2015, you contacted the NY State of Health's Account Review Unit and appealed the December 30, 2015 eligibility determination insofar as you were no longer eligible for Medicaid. That day you also requested to be reinstated into your Medicaid coverage under Aid to Continue.

On December 30, 2015, a notice of eligibility determination was issued based on the December 29, 2015 application, stating that you were eligible to receive up to \$211.00 in APTC and cost-sharing reductions, effective February 1, 2016. The notice further stated that you were not eligible for Medicaid because your income was over the allowable income limit for that program.

On January 12, 2016, your request for Aid to Continue was granted and you were reenrolled into your Medicaid coverage pending the outcome of your appeal.

On March 24, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was left open to allow you time to submit documentation of your income, and your disability status. On April 11, 2016 the Appeals Unit received the documentation and it was incorporated into the record as Appellant's Exhibit 1. The record is now closed.

## **Findings of Fact**

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

- 1) You are seeking insurance for yourself.
- 2) You are seeking to be found eligible for Medicaid.
- 3) The application that was submitted on December 29, 2015 listed a projected annual household income of \$26,208.00. This income consists of \$2,184.00 per month you receive from your Social Security Title II disability benefits. You testified that this amount was still correct.
- 4) Your Marketplace account indicates that you expect to file your taxes with a tax filing status of single and you will claim no dependents on that tax return.
- 5) You testified that you are certified disabled. You provided documentation from the Social Security Administration dated June 19, 2015 stating that the Social Security Administration found you disabled as of January 1, 2014.

6) Your application states that you live in New York County.

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 2016 is set by federal law at 2.03% to 9.66% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

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 \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

For annual household income in the range of at least 200% but less than 250% of the 2015 FPL, the expected contribution is between 6.41% and 8.18% of the

household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

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

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).

The Marketplace is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the Local Department of Social Services or the Human Resources Administration. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt

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).

of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

## Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$211.00 per month.

The application that was submitted on August 29, 2015, listed an annual household income of \$26,208.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2016 income taxes as single and will claim no dependents on that tax return.

You reside in New York County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$368.26 per month.

An annual income of \$26,208.00 is 222.67% of the 2015 FPL for a one-person household. At 222.67% of the FPL, the expected contribution to the cost of the health insurance premium is 7.20% of income, or \$157.24 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 primary subscriber and one dependent in your county (\$368.26 per month) minus your expected contribution (\$157.24 per month), which equals \$211.02 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$211.00 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 \$26,208.00 is 222.67% 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 no longer 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 \$11,770.00 for a one-person household. Since \$11,770.00 is 222.67% of the

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).

2015 FPL, the Marketplace properly found you to be no longer eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the December 29, 2015, eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$211.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, you testified that you are certified disabled. You provided documentation from the Social Security Administration dated June 19, 2015 stating that the Social Security Administration found you disabled as of January 1, 2014.

Individuals who are no longer eligible for MAGI-based Medicaid and become certified disabled may qualify for Medicaid under non-MAGI standards. The Marketplace is required to refer these individuals to New York City Human Resources Administration (HRA) for redetermination of their Medicaid eligibility.

Once a case is referred, the Marketplace and the HRA must ensure that an individual's Medicaid is maintained throughout the redetermination process to prevent any gaps in coverage. This includes maintaining an individual's coverage through their Medicaid Managed Care plan or their receipt of Medicaid Premium Assistance payments.

Your case is RETURNED to the Marketplace to refer your case to HRA. The Marketplace is directed to continue your Medicaid coverage through your Aid to Continue coverage until your case can be properly transferred to HRA for a redetermination of your eligibility for Medicaid on a non-MAGI basis.

## **Decision**

The December 30, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to refer your case to HRA. The Marketplace is directed to continue your Medicaid coverage through your Aid to Continue coverage until your case can be properly transferred to HRA for a redetermination of your eligibility for Medicaid on a non-MAGI basis.

**Effective Date of this Decision:** April 12, 2016

## **How this Decision Affects Your Eligibility**

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).



The Marketplace correctly determined you eligible for \$211.00 in APTC and cost-sharing reductions and ineligible for MAGI-based Medicaid.

However, your case is being referred to HRA for consideration of your eligibility for non-MAGI-based Medicaid and the Marketplace will continue your Medicaid coverage through Aid to Continue until a determination can be reached by HRA.

### **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

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).

## **Summary**

The December 30, 2015 eligibility determination notice is AFFIRMED.

The Marketplace correctly determined you eligible for \$211.00 in APTC and cost-sharing reductions and ineligible for MAGI-based Medicaid.

However, your case is being referred to HRA for consideration of your eligibility for non-MAGI-based Medicaid and the Marketplace will continue your Medicaid coverage through Aid to Continue until a determination can be reached by HRA.

## **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:**

