



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

Notice of Decision

Decision Date: September 15, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000642

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 13, 2014, and again on September 8, 2014, you appeared by telephone at hearings on your appeal of NY State of Health Marketplace's May 14, 2014 eligibility redetermination.

The enclosed Decision, rendered after those hearings, 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 notice.

Legal Authority

We are sending you this notice in accordance with 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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[REDACTED]
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Issue

The issue presented for review by the Appeals Unit of the NY State of Health is:

Did the Marketplace properly determine that [REDACTED] was ineligible for Medicaid but eligible for up to \$176.00 per month of advance premium tax credit as of May 14, 2014?

Procedural History

On February 26, 2014, the Marketplace received your initial application for health insurance.

On February 26, 2014, the Marketplace prepared a preliminary determination in your case. It said that you were eligible for up to \$161.00 monthly in advance premium tax credit (APTC) and, if you selected a silver-level plan, cost-sharing reductions (CSR); however, you were ineligible for Medicaid since your income exceeded the income limit for that program. This determination was based upon your household income of \$26,993.20.

On May 13, 2014, you revised the income stated in your application to \$25,530.00, noting that you would be filing as head of household and would be claiming your daughter as a dependent. Based upon this revision to your household income, the Marketplace issued a preliminary eligibility redetermination finding you eligible for up to \$176.00 monthly in APTC and, if you selected a silver-level plan, CSR; however, you remained ineligible for Medicaid since your reduced income still exceeded the income limit for that program.

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A notice of eligibility determination was sent on May, 14, 2014, and was consistent with the May 13, 2014 preliminary determination.

On June 13, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit.

On September 8, 2014, a Hearing Officer called you to continue the telephone hearing for the sole purpose of obtaining additional testimony in your case. The record was developed during both telephone hearing dates and closed at the end of the September 8, 2014 hearing.

Findings of Fact

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

- 1) You are divorced and live with your (then) 20-year-old daughter (Appellant testimony 6/13/14).
- 2) You expect to file a U.S. Income Tax Return for the 2014 tax year, file as "head of household" and claim your daughter as your sole dependent (NYSOH Exhibit A, p. 3; Appellant testimony 6/13/14).
- 3) You were employed by [REDACTED] during 2014 until your position was eliminated on or about May 1, 2014 as a result of the business closing (NYSOH Exhibit A, p. 4; Appellant's testimony 6/13/14).
- 4) On May 13, 2014, your expected household income for 2014 was \$25,530.00, which consisted of \$15,000.00 in earnings from [REDACTED], and \$10,530.00 in unemployment benefits (NYSOH Exhibit A, p. 3; Appellant's testimony 6/13/14).
- 5) You testified during the hearing that after you submitted your revised May 13, 2014 application for health insurance, you received a lump-sum payment of \$2,000.00 from [REDACTED]. You further testified to receiving this lump sum payment on or about May 15, 2014. As a result, your current expected annual income for 2014 is now \$27,530.00 (Appellant Testimony 6/13/14, 9/8/14).
- 6) You filed for unemployment benefits immediately after losing your position at [REDACTED]. You began receiving \$405.00 per week in unemployment benefits on or about May 20, 2014, and anticipate such payments to end in November of 2014 (Appellant testimony 6/13/14).

- 7) Of your \$405.00 weekly income from unemployment benefits, \$68.00 is deducted weekly for child support payments such that you receive only \$337.00 per week (Appellant testimony 6/13/14).
- 8) You further testified that your income during June of 2014 included only unemployment benefits, at a rate of \$405.00 per week. (Appellant testimony 9/8/14).
- 9) Your daughter is a full-time student and currently works two part-time positions. Your daughter's total expected earnings from these two jobs during 2014 are \$4,992.00 and \$300.00, respectively (Appellant's testimony 6/13/14).
- 10) Your daughter is unmarried and does not expect to file a U.S. Income Tax return for 2014 (NYSOH Exhibit A, p 4).
- 11) You are purchasing health insurance through the Marketplace, but your daughter is not.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

APTC Eligibility

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2013 federal poverty level; (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 qualified health plan; 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), N.Y. Soc. Serv. Law § 366(4)(c)).

For an APTC eligibility determination made on May 14, 2014 for a two-person household, the applicable FPL is \$15,510.00 (78 Fed. Reg. 5182, 5183).

Medicaid Eligibility

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

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Medicaid State plan in accordance with subpart B of this part; and (5) have household income that is at or below 138% of the federal poverty level, including the 5% disregard for household income where applicable (see 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

For a Medicaid eligibility determination made on May 14, 2014 for a two-person household, the applicable FPL is \$15,730.00, or \$1,310.83 per month (79 Fed. Reg. 3593).

When determining Medicaid eligibility for new applicants, financial eligibility is based upon current monthly income and family size (42 CFR § 435.603(h)(1)).

Income

A taxpayer's household income includes the modified adjusted gross income (MAGI) all the individuals in the taxpayer's family who are required to file a return for the taxable year (26 CFR § 1.36B-1(e)(2)).

The income of a child is not included within the MAGI-based income of an individual if the child is not required to file a tax return under 26 USC § 6012 (45 CFR § 155.300(a), 42 CFR § 435.603(d)(2)). A child whose gross income is less than the federal standard deduction applicable to them is not required to file a U.S. Income Tax return (26 USC § 6012(a)(1)). The 2014 federal standard deduction for a tax dependent with a "single" filing status is \$6,200 (IRS Publication IR-2013-87 (Oct. 31, 2013)).

"Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted, and amounts paid for child support are included as income of the payor of child support, as there is no deduction for child support in the calculation of adjusted gross income (26 USC § 62).

For the purposes of Medicaid eligibility, income received as a lump sum is counted only in the month it was received (42 CFR § 435.603(e)).

Legal Analysis

There are two people in your household, you and your daughter. You expect to file your 2014 U.S. income tax return as "head of household" and claim your daughter as your only dependent.

Of the eligibility requirements listed above for APTC and Medicaid, the only requirement currently at issue is the income requirement.

In your May 13, 2014 application for health insurance, you credibly attested to an expected annual income for 2014 of \$25,530.00, which included \$15,000.00 in

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earned income received from [REDACTED]; and \$10,530.00 in unemployment benefits; but not the lump-sum payment, which you had not yet received.

At the telephone hearing on June 13, 2014, you testified that you lost your position at [REDACTED] on May 1, 2014 and received unemployment benefits beginning May 20, 2014. The additional testimony you provided on September 8, 2014 confirmed that you received the \$2,000.00 lump-sum payment from [REDACTED] on or about May 15, 2014.

The May 14, 2014 eligibility determination stated that you were eligible to enroll in a qualified health plan (QHP) and eligible for up to \$176.00 per month of APTC through the Marketplace. This determination found you ineligible for Medicaid because your expected annual household income of \$25,530.00 was over the annual income limit for Medicaid.

In making its determination, the Marketplace did not have information on your actual income for just the month of May 2014. You testified that you get unemployment benefits of \$405.00 per week beginning May 20, 2014. That works out to benefits of \$810.00 for two weekly payments made in May. You later testified that you received the \$2,000.00 lump-sum payment on May 15, 2014.

You also testified that your weekly unemployment benefits of \$405.00 are reduced to \$337.00 because child support payments are taken out. Money paid for child support is counted in MAGI-based income of the person who pays it (it is not counted in the income of the person who receives it). Therefore, we cannot subtract your child support payments from your income.

Since your daughter's expected income for 2014 is \$5,292.00, which is less than the applicable federal standard deduction (\$6,200.00), her income is not included in your MAGI-based income.

Therefore, the credible evidence of record indicates that your MAGI-based income during May 2014 was \$2,800.00, which includes: \$810.00 for two weeks of weekly unemployment benefits *plus* the \$2,000.00 lump-sum payment received on May 15, 2014.

The credible evidence of record further indicates that your MAGI-based income during June 2014 was approximately \$1,620.00 (\$405.00 x four weekly checks days).

Since the Marketplace did not have your MAGI-based income for May 2014, the month that you submitted your revised application, the May 14, 2014 eligibility determination was based on incomplete information and is **RESCINDED**.

The case is REMANDED to the Marketplace for redetermination, taking into account the fact that your actual income during June 2014 was \$1,620.00, or your actual unemployment benefits as verified by the Marketplace.

Decision

The May 14, 2014 eligibility determination is RESCINDED.

This case is REMANDED to the Marketplace to redetermine your eligibility based upon a two-person household with a June 2014 household income of \$1,620.00, or your actual unemployment benefits as verified by the Marketplace.

Effective Date of this Decision: September 15, 2014

How this Decision Affects Your Eligibility

This decision does not decide your final eligibility. It gives the Marketplace the additional information that you provided and tells the Marketplace to redetermine your eligibility.

The Marketplace will issue a new eligibility determination.

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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520(c)).

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

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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 for assistance.

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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- By fax: 1-855-900-5557

Summary

The May 14, 2014 eligibility determination is RESCINDED.

This case is REMANDED to the Marketplace to redetermine your eligibility based upon a two-person household with a June 2014 household income of \$1,620.00, or your actual unemployment benefits as verified by the Marketplace.

This decision does not decide your final eligibility. It gives the Marketplace the additional information that you provided and tells the Marketplace to redetermine your eligibility.

The Marketplace will issue a new eligibility determination.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]