



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

Notice of Decision

Decision Date: September 11, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000650

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On June 19, 2014, you appeared at a hearing on your appeal of NY State of Health Marketplace's May 16, 2014 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 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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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 were not eligible for Medicaid?

Did the Marketplace properly determine that you and your spouse were not eligible for an advance premium tax credit (APTC) based on your tax filing status?

Did the Marketplace properly determine that your spouse would not be eligible for APTC based on his unverified citizenship status?

Procedural History

You first applied for health insurance through the Marketplace on March 21, 2014.

On March 22, 2014, you were sent a notice stating that more information was needed before a determination could be made on your eligibility.

Additional information was provided, and on May 15, 2014 the Marketplace prepared a preliminary eligibility determination that you and your spouse were not eligible for Medicaid or financial assistance. You appealed the preliminary determination that same day.

On May 16, 2014, the Marketplace issued a notice of eligibility determination based on the May 15, 2014 preliminary eligibility determination. The notice stated that you and your spouse were not eligible to receive advance premium tax credits (APTC) to help pay for the cost of health insurance coverage because you were married and not joint tax filers. Also, it stated that your husband was not eligible for APTC because his citizenship or immigration status had not been verified. Lastly, the notice stated that you were not eligible for Medicaid because your household income of \$23,002.72 was above the Medicaid income limit of \$21,707.00.

On June 19, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing. The record was left open for 15 days to give you time to submit income and citizenship documentation.

On June 23, 2014, the Appeals Unit received a fax from you with additional income and citizenship information attached, which has been made a part of the record.

On July 3, 2014, the Appeals Unit received another fax from you with additional citizenship information attached, which has also been made a part of the record. The record was subsequently closed.

Findings of Fact

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

- 1) You are currently married.
- 2) You and your spouse plan on filing your taxes as married filing separately for the 2014 tax year.
- 3) You currently reside with your spouse.
- 4) You and your spouse are both seeking health insurance coverage through the Marketplace
- 5) You testified that you work per diem as a [REDACTED], so your income fluctuates depending on the hours available. You also testified that you do not work during the months of July and August because the school you work at is closed.
- 6) According to your May 15, 2014 Marketplace application, you attested to a household income of \$23,002.72 for the 2014 tax year.

- 7) According to the income documentation you submitted to the Marketplace, you made \$804.00 during the four-week period between March 1, 2014 and March 28, 2014. According to the income documentation submitted to the Marketplace for your spouse, he made \$1,139.44 in the same period, based on four consecutive weeks of paystubs. Therefore, in one month, you jointly had an income of \$1,979.44.
- 8) A letter from your employer, dated June 4, 2014, indicated that you were a [REDACTED] and were paid on a biweekly basis.
- 9) After the hearing was closed, you submitted supporting documentation via fax, which included a letter from your employer clarifying your pay-schedule, a copy of your spouse's U.S. Passport, and a copy of your spouse's Naturalization Certificate. These documents were received by the Appeals Unit and incorporated into the record.

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

Applicable Law and Regulations

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 that is at or below 138% of the federal poverty 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)).

The 2014 federal poverty level (FPL) for a household of two people is \$15,730.00 (79 Fed. Reg. 3953).

For married couples living together, each spouse is included in the other spouse's household, regardless of whether they expect to file a joint tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse (42 CFR 435.603(f)(4)).

In general, to qualify for an advanced premium tax credit, a person who is married must either file taxes jointly with his or her spouse or qualify as "not married" at the close of the tax year (45 CFR § 155.305(f), 26 USC § 7703(a); 26 USC § 7703(b)).

An individual will be treated as not married at the close of the taxable year if the individual:

1. Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
2. Meets all of the following requirements:
 - files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child; and
 - pays more than one half of the cost of keeping up his/her home for the tax year; and
 - his/her spouse is not a member of the household during the last 6 months of the taxable year

(26 USC § 7703(a); 26 USC § 7703(b)).

Legal Analysis

The first matter at issue is whether you are eligible for no-cost medical insurance through Medicaid.

Since you live with your spouse, even though you do not expect to file jointly, you are a two-person household for purposes of this decision.

You reported a household income of approximately \$1,979.44 for 4 consecutive weeks between March 1, 2014 and March 28, 2014, which includes your income of \$804.00 in four consecutive weeks and your spouse's income of \$1,139.44 in four consecutive weeks. At approximately \$1,979.44 per month, this places you and your spouse at 150.99% of the 2014 FPL. Since Medicaid is available only to individuals whose household income is no greater than 138% of the 2014 federal poverty level, the Marketplace properly found that you and your spouse were not eligible for Medicaid as of May 15, 2014.

The next matter at issue is whether you are eligible for APTC.

According to the documents in the record and your testimony at the hearing, you are married, you are not divorced or legally separated from your spouse, and you do not plan to file a joint tax return with your spouse for the 2014 tax year.

The record does not support a finding that you qualify to be treated as “not married” for purposes of this decision. Therefore, you and your spouse are not eligible for an advance premium tax credit at this time.

However, if you decide to file jointly with your spouse for the 2014 tax year by the end of this year, you may be entitled to claim tax credits on your federal tax return to offset a portion of the premiums you paid for health insurance you purchased through the Marketplace this year.

The final matter is verification of your spouse’s citizenship or immigration documents. According to the record, you have now submitted supporting citizenship documentation, and this issue has been resolved by the Marketplace.

Decision

The May 15, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: September 11, 2014

How this Decision Affects Your Eligibility

You and your spouse are not eligible for Medicaid based on your current income information. You may reapply for Medicaid at any time based on updated income information.

You and your spouse are not eligible to receive advance premium tax credits (APTC) based on your tax filing status of married filing separate.

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.

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 15, 2014 eligibility determination is AFFIRMED.

You and your spouse are not eligible for Medicaid based on your current income information. You may reapply for Medicaid at any time based on updated income information.

You and your spouse are not eligible to receive advance premium tax credits (APTC) based on your tax filing status of married filing separate.

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]