



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: AP000000000681

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 30, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 14, 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).

THIS PAGE INTENTIONALLY LEFT BLANK



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

Decision

Decision Date: September 15, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000681

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that, as of May 14, 2014, [REDACTED] is ineligible for Medicaid but eligible for \$276.00 monthly of advance premium tax credit and for cost-sharing reductions while enrolled in a silver level qualified health plan?

Procedural History

The Marketplace originally received your application on March 17, 2014.

On May 14, 2014, the Marketplace issued an eligibility determination in your case. It said you are ineligible for Medicaid but eligible to receive up to \$276.00 monthly of advance premium tax credit (APTC) and also to receive cost-sharing reductions (CSR) as long as you are enrolled in a silver level qualified health plan (QHP).

On May 21, 2014, you spoke with Marketplace Customer Service and appealed that determination.

On June 30, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open to allow you the opportunity to submit pay stubs.

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).

Immediately following the hearing, you sent two faxes to the Appeals Unit including pay stubs for the periods of 3/5/2014 to 3/18/2014; 4/16/2014 to 4/29/2014; and 6/11/2014 to 6/24/2014. These documents have been collectively marked as Appellant's Exhibit "B" and have been made a part of the record.

There being nothing further needed nor expected, the record was closed.

Findings of Fact

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

- 1) You are single, have no dependents, and plan on filing your 2014 income taxes as single (Appellant Testimony of 6/30/14; Marketplace Application).
- 2) According to your application, you live in Dutchess County, New York.
- 3) You testified that you have worked for [REDACTED], an assisted living facility, since July 23, 2010 (Appellant Testimony of 6/30/14).
- 4) You testified, and provided pay stubs to show that you work an average of 35 hours for \$9.55 an hour and get paid every two weeks. You occasionally get overtime, get paid for continuing education classes, and get holiday time if the holiday falls on your regular workday (Appellant's Exhibit A and B).
- 5) Your pay stubs show that you worked 40 hours per week during the period 4/16/2014 to 4/29/2014 and overtime for 16.50 hours at a rate of \$14.33 per hour, worked 40 hours per week during the period of 6/11/2014 to 6/24/2014, and the pay stub for that period shows your gross income year to date is \$10,781.46 (Appellant's Exhibit B).
- 6) You testified that the navigator used your 2009 income of \$16,946.54 on your Marketplace application by mistake and that you tried to correct it by submitting six weeks of paystubs to the Marketplace on April 14, 2014 (Appellant's Testimony of 6/30/14; Appellant's Exhibit A).
- 7) You stated that you cannot afford to pay anything toward health insurance because of your limited income, monthly rent expense of \$985, and living needs, and at times you have to ask your mother for financial help to get by (Appellant's Testimony of 6/30/14).

- 8) You testified that you cannot get the physical therapy you need for your medical condition and need insurance for a pending orthopedic surgery (Appellant's Testimony of 6/30/14).

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

Applicable Law and Regulations

To be eligible for Medicaid, a person must (1) be a United States citizen or a qualified alien, (2) be a resident of New York State (3) be under the age of 65 and not entitled to Medicare benefits, (4) not be incarcerated, and (5) have a household modified adjusted gross income (MAGI) at or below the appropriate standard (45 CFR § 155.305(c); NYS Social Services Law §§ 122(1), 366(1)(b), (1)(d)-(e)).

"Applicable modified adjusted gross income standard means 133 percent of the Federal poverty level," with a 5 percent disregard for household income when applicable (42 CFR § 435.911(b)(1); 42 CFR 435.603(d)(4)). Medicaid is available to an individual who has a household income no higher than 138% of the Federal poverty level (FPL) (42 CFR § 435.218).

The 2014 FPL for a one-person household is \$11,670 (79 Fed. Reg.3593).

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 the 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 is set by Federal law at 2% to 9.5% of household income (26 USC § 36B(b)(3)(A)).

For household income that is at least 133% but less than 150% of the 2013 federal poverty level (FPL), the expected contribution is from 3.0% to 4.0% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR 155.300(a)).

For a one-person household, the 2013 FPL is \$11,490.00 (78 Fed Reg 5182, 5183 (2013)).

Cost sharing reductions (CSR) are available to a person who is eligible to enroll in a qualified health plan (QHP) and:

- 1) is eligible for an advanced premium tax credit (APTC),
- 2) has a household income less than 250% of the FPL, and
- 3) enrolls in a silver level health plan

(45 CFR § 155.305(g)).

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 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

For purposes of determining your eligibility for Medicaid or APTC, you are in a one-person household.

The eligibility determination made on May 14, 2014 was based on anticipated household income of \$16,946.54. This was the amount of expected 2014 income indicated on your March 17, 2014 application.

Of the eligibility requirements for Medicaid, the only one at issue is the income level. Medicaid is available to an individual who has a household income no higher than 138% of the FPL. The 2014 FPL was used to determine Medicaid eligibility on the dates of your determinations. The 2014 FPL for a one-person household is \$11,670.00, so Medicaid is available up to an income of \$16,105.00 (138% of \$11,670.00). Since the household income you reported on your application was \$16,946.54, the May 14, 2014 determination correctly stated that you were not eligible for Medicaid.

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).

Since the May 14, 2014 notice of eligibility determination stated that you are eligible for APTC, the only question is whether the amount of the APTC that it authorized was correct.

You reside in Dutchess County, where the second lowest cost silver plan available through the Marketplace costs \$330.41 per month.

On the application you stated that your expected income for 2014 was \$16,946.54, which is 147.49% of the 2013 FPL for a one-person household. At 147.49% of the FPL, the expected contribution to the cost of the health insurance premium is 3.85% of income, which equals \$54.37 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$330.41 per month) minus your expected contribution (\$54.37 per month), which equals \$276.11 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$276.00 per month.

Cost sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 147.49% of the FPL, you are eligible for cost sharing reductions provided you are enrolled in a silver level qualified health plan.

You testified, and provided pay stubs to show, that you earn \$9.55 per hour and work an average of 35 hours each week. You sometimes get extra pay, such as for overtime and holidays.

Your pay stub for the period ending June 24, 2014 gives your year-to-date gross income as \$10,781.46. This equals an average gross wage of \$431.26 per week for 25 weeks. Since the average of \$431.26 per week is based on such a long period of time, it compensates for week-to-week changes in pay and provides a good basis for an expected income for 2014. Therefore, the credible evidence of record supports a finding that your expected 2014 household income is \$22,425.52 ($\431.26×52 weeks).

Since the record now contains credible evidence of your expected 2014 income, the case is returned to the Marketplace to redetermine eligibility based upon an expected 2014 household income of \$22,425.00.

You stated that you cannot afford to pay for the monthly premium of a silver-level health plan even with the APTC and CSR previously calculated. Since your income is greater than the estimate used to calculate your original APTC amount, you may qualify for a lower amount of APTC than the \$276.00 authorized in the May 12, 2014 eligibility determination. If you believe you qualify for a hardship exemption from paying a penalty for not having health insurance in 2014, consult

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 Federal Marketplace website (www.healthcare.gov) for additional information and an application.

Decision

The eligibility determination made on May 14, 2014, is **AFFIRMED**.

The case is returned to the Marketplace for redetermination of eligibility based upon a one-person household with an expected income of \$22,425.52.

Effective Date of this Decision: September 8, 2014

How this Decision Affects Your Eligibility

This Decision does not decide your final eligibility.

It returns your case to the Marketplace to redetermine your eligibility based on the corrected income information that you provided to the Hearing Officer.

The Marketplace will redetermine your eligibility and issue a new notice of 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.

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).

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 eligibility determination of March 1, 2014, is AFFIRMED.

The case is returned to the Marketplace for redetermination of eligibility based upon a one-person household income of \$431.26 per week, \$22,425.52 per year.

The Marketplace will redetermine your eligibility and issue a new notice of eligibility redetermination.

If you are interested in requesting a hardship exemption, you can find additional information at the Federal marketplace website (www.healthcare.gov).

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]
[REDACTED]