



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

Notice of Decision

Decision Date: October 7, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000692

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On July 1, 2014, your authorized representative, acting on your behalf, appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 28, 2014 eligibility redetermination.

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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[REDACTED]
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Issue

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

Did the Marketplace properly determine that [REDACTED] was eligible for \$97.00 monthly of advance premium tax credit, but not eligible for cost-sharing reductions, as of December 29, 2013 and May 28, 2014?

Procedural History

The Marketplace received your application on December 26, 2013.

On December 29, 2013, the Marketplace issued an eligibility determination in your case. It said you were eligible to receive up to \$97.00 monthly of advance premium tax credit (APTC) but not eligible for cost-sharing reductions (CSR) or Medicaid because your household income was over the allowable limits for those programs.

On May 27, 2014, you spoke with a representative in the Marketplace Customer Service unit and your eligibility was redetermined, with the same result. You appealed this preliminary redetermination.

On May 28, 2014, the Marketplace issued a notice consistent with the May 27, 2014 preliminary redetermination. It also said that you qualified to select a health plan outside of the open enrollment period.

On July 1, 2014, you spoke with a Hearing Officer and verified that you were authorizing your daughter [REDACTED] to serve as your authorized representative. Your authorized representative then participated in a telephone hearing with a Hearing Officer from the

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Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) As of May 27, 2014, you and your spouse planned to file your 2014 income taxes as married filing jointly (Marketplace Application).
- 2) Only you are applying for health insurance (Marketplace Application).
- 3) You reside in Westchester County, New York (Marketplace Account).
- 4) You reported your expected 2014 income as \$4,800.00 on your application. Your authorized representative testified that you make approximately \$400.00 a month (Marketplace Application; Authorized Representative's Testimony of 7/1/2014).
- 5) As of May 27, 2014, your spouse expected to receive \$36,000.99 in Title II, Social Security benefits during 2014 (Marketplace Application).
- 6) Your authorized representative testified that your spouse's total monthly income of \$3,477, or \$41,724.00 annually, came from three sources: retirement, disability, and workers' compensation benefits. The workers' compensation benefits were \$920.00 per month (Authorized Representative's Testimony of 7/1/2014).
- 7) Your work schedule was reduced by your employer to 25 hours per week beginning in 2014, making you ineligible for employer-sponsored health insurance after December 31, 2013.
- 8) You were instructed by a representative of the Marketplace to produce a letter of termination of health insurance, which you and your authorized representative promptly requested (Authorized Representative's Testimony of 7/1/2014).
- 9) Your authorized representative stated that she was told by a representative of the Marketplace that you must submit the insurance termination letter before selecting a plan, appealing your eligibility determination, or applying for a hardship exemption (Appeal Summary at p.2 of Document O14157DFD9003).
- 10) The certificate of termination of health insurance was issued on April 24, 2014, two months after it had been requested. It was uploaded to the Marketplace and viewable in your account on April 30, 2014. It confirms that your health insurance coverage terminated on December 31, 2013 (Marketplace Account – Documents Portal; Authorized Representative's Testimony of 7/1/2014).
- 11) Speaking on your behalf, your authorized representative contended that your household income should not include your husband's income and that it is a hardship

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on your husband to have to pay \$250 per month from his benefits for your health insurance (Authorized Representative's Testimony of 7/1/2014).

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

Applicable Law and Regulations

Eligibility for advance premium tax credit (APTC) is based on the taxpayer's modified adjusted gross income as defined in the federal tax code (45 CFR 155.300(a)). "The term 'modified adjusted gross income' means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1-36B-1(e)(2)).

Workers' compensation benefits that are received as compensation for personal injuries or sickness are not included in modified adjusted gross income (see NY Soc Serv Law § 366.1(a)(7); 26 USC §§ 36B(d)(2)(B), 62(a), 104(a)(1)).

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

Legal Analysis

On your December 26, 2013 application for health insurance and again on May 27, 2014, you said that there were two people in your household: you and your spouse. You also said that your expected household income for 2014 would be \$40,800.00, which included your and your spouse's income.

The credible evidence, as confirmed by your authorized representative's testimony, indicates that your own expected income for 2014 is \$4,800.

At the telephone hearing on July 1, 2014, the Hearing Officer learned that your spouse's reported income was \$3,477.00 monthly, or \$41,724.00 annually, which included \$920.00 in workers' compensation benefits each month. Since workers' compensation benefits are not included in a Marketplace calculation of modified adjusted gross income, your eligibility was determined on an incorrect household income.

Since an incorrect household income was used to determine your eligibility, the May 28, 2014 eligibility determination is not supported by the record and is **RESCINDED**.

The new and additional 2014 household income information you provided at your hearing would warrant another review of your application and a redetermination by the Marketplace in your case.

However, it is noted that after your hearing, and using updated information that you provided, the Marketplace redetermined your eligibility. On August 12, 2014, the Marketplace issued a determination that you are eligible for Medicaid and that your coverage begins on August 1, 2014.

The August 12, 2014 eligibility determination replaces the notice that is dated May 28, 2014.

Decision

The May 28, 2014 eligibility determination is not supported by the record and is RESCINDED.

The August 12, 2014 eligibility determination remains in effect.

Effective Date of this Decision: May 28, 2014

How this Decision Affects Your Eligibility

The August 12, 2014 eligibility determination remains in effect.

Your Medicaid coverage began on August 1, 2014.

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 28, 2014 eligibility determination is not supported by the record and is RESCINDED.

The August 12, 2014 eligibility determination remains in effect.

Your Medicaid coverage began on August 1, 2014.

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]
[REDACTED]
[REDACTED]