



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: AP000000000710

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

Dear [REDACTED],

On July 8, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 28, 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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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 not eligible for Medicaid as of May 28, 2014?

Did the Marketplace properly determine that [REDACTED] was eligible for \$276.00 monthly of advance premium tax credit and eligible for cost-sharing reductions as of May 28, 2014?

Procedural History

The Marketplace received your initial application for health insurance on March 13, 2014.

On March 14, 2014, the Marketplace issued an eligibility determination that found you ineligible for Medicaid, but eligible for up to \$276.00 in advance premium tax credit (APTC) and, if you selected a silver-level plan, cost-sharing reductions (CSR). This eligibility determination was made, in part, based upon your reported expected yearly income of \$20,800.00.

On April 10, 2014, you decreased your expected yearly income in your application to \$15,600.00.

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On April 11, 2014, the Marketplace sent you a notice that more information would be needed in order to make a determination.

On May 1, 2014, you submitted to the Marketplace via facsimile paystubs reflecting income received by you between March 14, 2014 and April 11, 2014.

On May 27, 2014, you increased your expected yearly income application back to \$20,800.00

On May 28, 2014, the Marketplace issued an eligibility redetermination. The findings of this determination were entirely consistent with those of the March 14, 2014 eligibility determination.

On June 12, 2014, you called the Marketplace's Customer Service unit and appealed the May 28, 2014 determination.

On July 8, 2014, you had a telephone hearing with a Hearing Officer from the 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) Appellant is single (NYSOH Exhibit A, pg. 1).
- 2) Appellant has a 27-year-old son who does not reside with her, and is not seeking health insurance through the Appellant's Marketplace account (Appellant's testimony 7/8/14).
- 3) Appellant expects to file a U.S. Income Tax return for the 2014 tax year, file as "single," and to claim no dependents (NYSOH Exhibit A, pg. 1; Appellant testimony 7/8/14).
- 4) Appellant is currently employed by [REDACTED], where she expects to earn \$400.00 per week, or \$20,800.00 for 2014 (NYSOH Exhibit A, pgs. 2, 7; Appellant testimony 7/8/14).
- 5) Appellant resides in Kings County, New York (NYSOH Exhibit A, pg. 1; Appellant testimony 7/8/14).
- 6) Appellant testified that if she does not qualify for additional advance premium tax credits, she will have difficulty making any insurance premium payments due to her monthly living expenses, which

include rent, groceries, car expenses relating to her work commute, telephone, and laundry (Appellant's testimony 7/8/14).

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

Applicable Law and Regulations

Medicaid through the Marketplace can be provided 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 level for the applicable family size (42 CFR § 435.119(b), 42 CFR 435.911(b)(1), 42 CFR 435.603(d)(4)).

For a one-person household the 2014 FPL is \$11,670.00 (79 Fed. Reg. 3593).

There is no provision in law or regulation that allows the Marketplace to deduct the household expenses to which you testified from the modified adjusted gross income.

The maximum amount of APTC that can be approved equals:

- 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

- the taxpayer's expected contribution amount (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 towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on household's income.

For household income in the range of at least 150% FPL but less than 200% FPL, the expected contribution is from 4.00% to 6.30% of the household income (26 USC § 36B(b)(3)(A)).

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

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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)). Additional information and an application for the hardship exemption is available at the Federal Marketplace website (www.healthcare.gov).

Legal Analysis

The matters at issue are whether you are eligible for no-cost medical insurance through Medicaid and whether you are eligible for a greater APTC than the \$276.00 already approved.

Since you live on your own and have no tax dependents, you are in a one-person household for purposes of this decision.

Of the Medicaid eligibility requirements indicated above, the only one at issue is the income requirement. You reported a household income of \$20,800.00, which is 178.23% of the 2014 FPL. Since Medicaid is available only to a person whose household income is not greater than 138% of the FPL, the Marketplace properly found that you were not eligible for Medicaid as of May 28, 2014.

You reside in Kings County, where the second lowest cost individual silver plan available through the Marketplace costs \$370.52 per month.

Your expected income for 2014 is \$20,800.00, which is 181.03% of the 2013 FPL for a one-person household. At 181.03% of the FPL, the expected contribution to the cost of the health insurance premium is 5.43% of the household income, or \$94.07 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$370.52 per month) *minus* your expected contribution (\$94.07 per month), which equals \$276.45 per month.

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

You testified that you may not be able to afford to pay your health insurance premium. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

Decision

The Marketplace's May 28, 2014 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: September 11, 2014

How this Decision Affects Your Eligibility

Your eligibility has not changed.

You are not eligible for Medicaid. You are eligible for a maximum advance premium tax credit of \$276.00 per month and, if you select a silver-level plan, cost-sharing reductions.

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 Marketplace's eligibility determination made on May 28, 2014, is **AFFIRMED**.

Your eligibility has not changed.

You are not eligible for Medicaid. You are eligible for a maximum advance premium tax credit of \$276.00 per month, and you select a silver-level plan, cost-sharing reductions.

If you are interested in requesting a hardship exemption, you can find additional information and an application 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).

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A Copy of this Decision Has Been Provided To:

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