



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

Notice of Decision

Decision Date: November 5, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000761

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

Dear [REDACTED]

On September 4, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's July 26, 2014 eligibility redetermination.

The attached Decision, rendered after that hearing, is issued by the Appeals Unit of 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 letter.

Legal Authority

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

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[REDACTED]
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Issue

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

Did the Marketplace properly determine that, while [REDACTED] was eligible to enroll in a qualified health plan (QHP), she was ineligible for financial assistance as of July 26, 2014?

Procedural History

The Marketplace received your initial application for health insurance on July 23, 2014, in which you indicated your marital status as “separated” and your tax filing status as “single.”

On July 24, 2014, the Marketplace issued an eligibility determination in response to your July 23, 2014 application. It said that because the Marketplace was unable to verify your citizenship or immigration status, you were not eligible to enroll in a QHP or to receive financial assistance through the Marketplace.

On July 25, 2014, you submitted multiple revised applications to the Marketplace, in which you changed your Citizenship Status to “Immigrant Non-Citizen” and revised your marital status to “single.” In response, the Marketplace prepared multiple preliminary eligibility redeterminations. The final preliminary determination prepared that day stated that you were eligible to enroll in QHP, but that you were not eligible for financial assistance. This determination was based upon an annual household income of \$55,000.00.

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On July 25, 2014, you spoke with the Marketplace's Customer Service unit and requested an appeal of that determination.

On July 26, 2014, a notice of eligibility redetermination was sent by the Marketplace, which was consistent with the final July 25, 2014 preliminary redetermination.

On September 4, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for a period of 15 days until September 19, 2014, in order to provide you an opportunity to submit documentation about your income, including: (1) paystubs during July 2014 relating to your employment with [REDACTED] (2) a signed letter from [REDACTED] stating that your last day with the company was July 7, 2014, and (3) business records detailing income and expenses relating to your self-employment as a [REDACTED]. No additional documentation was received from you by September 19, 2014.

On September 19, 2014, you spoke with the Marketplace's Customer Service unit to advise the Marketplace that you had been unable to upload your documents. You were told to fax them.

As of October 2, 2014, no further documentation has been received by the Marketplace. Therefore, the record is now closed.

Findings of Fact

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

- 1) Your July 23, 2014 application stated that your marital status was "separated," with a tax filing status of "single."
- 2) On July 25, 2014, you ultimately modified your application to state that your marital status was "single."
- 3) You live alone, you have no children, and you are seeking health insurance only for yourself.
- 4) You testified during the hearing that you expect to file a U.S. Income Tax return for 2014, to file as "single," and to claim no dependents.
- 5) You further testified during the hearing that while you are physically separated from your spouse, there is no legal order of separation in effect, and that you are in fact still married.
- 6) You reside in Kings County, New York.

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- 7) You testified that you are currently employed as a [REDACTED] and that your income from that employment varies; you are compensated at a rate of \$45.00 per hour and you expect to earn \$8,000.00 in 2014.
- 8) You testified that you were also employed as a [REDACTED] [REDACTED] by [REDACTED] on an inconsistent basis, until July 7, 2014, when your employment ended. During your employment, you were compensated at a rate of \$45.00 per hour, for an approximate total of \$24,000.00 in earnings during 2014.
- 9) You further testified, and the record reflects, that you receive additional inconsistent income through your self-employment as a [REDACTED] [REDACTED] that you are typically compensated at a rate of \$45.00 per hour, and that you expect your total earnings from this self-employment to be \$23,000.00 in 2014.

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

Applicable Law and Regulations

APTC Eligibility

A tax filer is eligible for an advance premium tax credit (APTC) if (1) the tax filer is expected to have a household income of at least 100% but not more than 400% of the Federal Poverty Level (FPL), (2) the tax filer expects to claim a personal exemption deduction on her tax return for an applicant who meets the eligibility requirements to enroll in a QHP and (3) is not eligible for minimum essential coverage except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR § 1.36B-2).

A tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

However, a tax filer will be treated as “not married” at the close of the taxable year if the tax filer:

1. Is legally separated from her spouse under a decree of divorce or of separate maintenance, or
2. Meets all of the following criteria:

- a. the taxpayer files a separate return from her spouse, maintains her household as the primary home for a qualifying child to whom the taxpayer is entitled to a deduction for the taxable year; and
- b. the taxpayer pays more than one-half of the cost of keeping up her home for the tax year; and
- c. the taxpayer's 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)).

Medicaid Eligibility

An adult is eligible for enrollment in Medicaid through the Marketplace when she meets the nonfinancial criteria and has a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)). Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

For a Medicaid eligibility determination made on July 26, 2014 for a one-person household, the applicable FPL is \$11,670.00, or \$972.50 per month (79 Fed. Reg. 3593).

Legal Analysis

This first issue on appeal is whether you were eligible for APTC as of July 26, 2014.

According to the record, you expect to file as “single” on your U.S. Income Tax return for 2014 and claim no dependents.

In general, to qualify for APTC, 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.

According to the documents in the record and your testimony at the hearing, you are neither divorced nor legally separated from your spouse, and you do not plan to file a joint tax return with your spouse for the 2014 tax year. You also do not have any children. Therefore, the record does not support a finding that you are “not married” for tax purposes; it is unnecessary to consider whether your spouse

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will be a member of your household during the last six months of the 2014 tax year.

Since you are married, you are not filing jointly with your spouse, and you do not qualify to be considered “not married,” you are not eligible for APTC through the Marketplace.

However, while the Marketplace correctly found you are ineligible for APTC, we find the determination was based on your annual household income of \$55,000.00, instead of additionally basing the finding on your filing your tax return as “single.”

Therefore, the Marketplace’s determination that you ineligible for APTC as of July 26, 2014 is also MODIFIED only insofar as to also base your ineligibility for APTC on your tax filing status.

The second issue on appeal is whether you were eligible for no-cost medical insurance through Medicaid as of July 26, 2014.

Since you live alone and plan to file a U.S. Income Tax return for 2014, to file as “single,” and to claim no dependents (even though the record indicates you are currently married), you are a one-person household for purposes of determining Medicaid eligibility.

According to your July 25, 2014 application, which was supported by your testimony, your expected annual earnings for 2014 total approximately \$55,000.00. This amount is well in excess of 138% of the FPL for a household of one, and you were therefore found ineligible for Medicaid based on annual earnings.

However, at the hearing you testified that your 2014 expected annual household income no longer accurately reflects your current monthly income. You were given an opportunity to provide documentation of your actual income received during July 2014 but failed to do so before the record closed on September 19, 2014. Therefore, we are unable to consider you for eligibility for Medicaid based on your actual earnings in a given month, because there are no records available that show that you earned less than \$1,342.05 per month for any month in 2014.

Therefore, the Marketplace’s determination that you were ineligible for Medicaid as of July 26, 2014 is AFFIRMED.

Decision

The July 26, 2014 eligibility redetermination is AFFIRMED.

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Effective Date of this Decision: November 5, 2014

How this Decision Affects Your Eligibility

As of July 26, 2014, you remain eligible to enroll in a QHP without a subsidy (APTC).

As of July 26, 2014, you were not eligible for Medicaid.

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 July 26, 2014 eligibility redetermination is **AFFIRMED**.

As of July 26, 2014, you remain eligible to enroll in a QHP without a subsidy (APTC).

As of July 26, 2014, you were not eligible for Medicaid.

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]