



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

Decision Date: November 5, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000764

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On September 2, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's July 29, 2014 eligibility determination.

The enclosed 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 notice.

Legal Authority

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

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Issues

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

Did the Marketplace properly determine that you are eligible for \$23.00 per month in advance premium tax credit and, provided you enroll in a silver-level qualified health plan, for cost-sharing reductions as of July 28, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of July 28, 2014?

Did the Marketplace properly determine that your son is eligible for Child Health Plus and not Medicaid as of July 28, 2014?

Procedural History

The Marketplace received your application for health insurance on July 3, 2014.

You modified your application on July 28, 2014 due to a change in income. That same day, the Marketplace prepared a preliminary eligibility redetermination finding you eligible for up to \$23.00 per month in advance premium tax credit (APTC), for cost-sharing reductions (CSR) provided you were enrolled in a silver level qualified health plan (QHP) through the Marketplace, and ineligible for Medicaid due to your annual income level. The Marketplace also found your son eligible for Child Health Plus (CHP) with a monthly premium of \$9.00.

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On July 28, 2014, you spoke with a representative in the Marketplace's Customer Service Unit and appealed both your and your son's determinations.

On July 29, 2014, the Marketplace issued eligibility redeterminations for both you and your son that were consistent with the July 28, 2014 preliminary redeterminations.

On September 2, 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 for 15 days until September 17, 2014, for you to submit additional documentary evidence.

The Appeals Unit did not receive any documents from you by close of business on September 17, 2014. However, you faxed a six-page document to the Marketplace on September 17, 2014, and this was uploaded to your Marketplace account on September 19, 2014. Since it was submitted on September 17, 2014, it is considered timely. This evidence consists of (1) a cover page with explanation, (2) a list of the medications you take and the cost of each, (3) a letter from your employer indicating that you are a former employee (4) a copy of your last pay stub, and (5) a copy of your unemployment insurance benefits online report. Collectively, this evidence has been marked as "Appellant's Exhibit A" and made part of the record. The record is now closed.

Findings of Fact

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

- 1) You currently live with your eight year-old adopted son in Monroe County, New York.
- 2) You plan on filing your 2014 tax return as Head of Household with a Qualifying Individual.
- 3) You testified that you were separated from your employment effective June 16, 2014. You provided a letter from your former employer, dated June 24, 2014 that states you are a former employee (Appellant's Exhibit A, p.3).
- 4) You testified that your employer-sponsored health insurance coverage ended on June 30, 2014.
- 5) Both you and your eight year-old son are seeking health insurance through the Marketplace.
- 6) You testified that you applied for and were approved for unemployment insurance benefits; that your waiting period for unemployment benefits ended on June 25, 2014; and your gross benefits are \$405.00 per week.
- 7) You testified that you earned \$23,930.00 from employment between January 1, 2014 and June 16, 2014. You further testified that although you were due your last

paycheck during June 2014, you had to contact your former employer to request your final paycheck because it was not deposited when it should have been. During July, your former employer deposited a paycheck into your checking account, but it was for an amount that was \$4,000.00 higher than it should have been. You notified your former employer of the error and they corrected it administratively in in July 2014 (Appellant's Exhibit A, p.4).

- 8) You testified and provided documentary proof that your former employer issued a corrected final pay stub, dated July 3, 2014, which shows your corrected gross pay of \$1,463.64 (Appellant's Exhibit A. p. 4).
- 9) Your last pay stub shows that your taxable gross earnings are \$30,323.49 (Appellant's Exhibit A, p. 4).
- 10) You stated on your cover page of the September 17, 2014 fax that the deduction of \$692.00 on your Marketplace application was made in error (Appellant's Exhibit A, p.1).

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

Applicable Law and Regulations

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 in the range of at least 300% but less than 400% of the 2013 federal poverty level (FPL), the expected contribution is 9.5% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR 155.300(a)).

The annual 2013 FPL for a two-person household is \$15,510.00 (78 Fed Reg 5182, 5183 (2013)).

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a qualified health plan (QHP) through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

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; (4) are not otherwise eligible for and enrolled for mandatory coverage under Medicaid; and (5) have a household modified adjusted gross income that is at or below 138% of the current FPL for the applicable family size (42 CFR §§ 435.119(b), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

Medicaid is currently available to children who are at least one year of age but under the age of nineteen who have a modified adjusted gross income at or below 154% of the current FPL for the applicable family size (see 42 CFR § 435.118(c); NY Department of Health Administrative Directive 13ADM-03).

The annual 2014 FPL for a two-person household is \$15,730.00 (79 Fed. Reg. 3593).

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).

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in Child Health Plus depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the federal poverty level. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

Legal Analysis

The only matters at issue are whether, when you modified your July 28, 2014 application for insurance coverage with financial support, (1) you were eligible for advance premium tax credit (APTC) of \$23.00 per month and cost-sharing reductions but not Medicaid and (2) your son was eligible for Child Health Plus (CHP) but not Medicaid.

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According to the record, your tax household consists of two people, you and your adopted eight year-old son. You expect to file as head of household with a qualifying individual on your tax return for 2014. Therefore, you are in a household of two people.

A two-person household may qualify for APTC if the annual household income is between \$21,404.00 (138% FPL) and \$62,040.00 (400% FPL).

You reside in Monroe County, where the lowest cost silver plan that is available through the Marketplace for an individual costs \$270.68 per month.

On your July 28, 2014 application you attested to an expected 2014 annual income of \$37,898.00, which is 244.34% of the 2013 FPL for a two-person household. At 244.34% of the FPL, the expected contribution to the cost of the health insurance premium is 7.85% of income, or \$247.92 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$270.68 per month) minus your expected contribution (\$247.92 per month), which equals \$22.76 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$23.00 per month, based on the information you provided.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since household income you provided on your application is 244.34%, of the FPL, you are eligible for cost-sharing reductions.

Medicaid coverage may be available to an adult (age 19 to 65) at up to 138% of the current FPL and to a child (age 1 to 19) at up to 154% of the current FPL. Since the 2014 FPL for a two-person household is \$15,730.00, your attested income of \$37,898.00 put your household at 240.09% of the FPL, so the Marketplace correctly determined that neither you nor your son met the income threshold for Medicaid coverage.

Eligibility for CHP coverage, and the cost of the monthly insurance premium, if any, is also based on household income as compared to the current FPL. Since your household income falls between 160% and 400% of the FPL, your son is eligible for CHP coverage, but a monthly premium is due.

The July 29, 2014 eligibility determination, based on your attested expected household income of \$37,898.00, correctly stated that you were eligible for up to \$23.00 per month of APTC and eligible for CSR but ineligible for Medicaid and that your son was eligible for CHP coverage but ineligible for Medicaid. Therefore, it was correct and is AFFIRMED.

However, during your September 2, 2014 hearing you credibly testified that your 2014 expected household income for the year is now \$33,768.00 and that even this lower annual total no longer accurately reflects your current monthly income.

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Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Since you were not receiving Medicaid when you submitted your application on July 28, 2014, this standard applies. Lump-sum payments are counted during the month they are received, so although you earned your final \$1,463.64 paycheck during June it is counted as income for July, when you received the corrected payment. Your unemployment insurance benefits report shows that you received \$1,923.75 during July. Therefore, your July income was \$3,387.39, which exceeds the monthly income limit of \$1,809.00 for a two-person household.

The credible evidence of record, including your testimony, indicate that beginning as of August 2014, your only source of income is \$405.00 per week in unemployment benefits. Therefore your income for the month of August 2014 is \$1,620.00. This supports the contention that your earlier estimates of expected income do not accurately reflect yours, and your son's, current financial situation.

Under these circumstances, it is appropriate for the Marketplace to redetermine eligibility for financial assistance for you and your son taking into account your in income for the month of August 2014 and later.

Therefore, your case is returned to the Marketplace for redetermination of your eligibility for financial assistance, based on a household of two people with a monthly income of \$1,620.00.

Decision

The Marketplace's eligibility determination of July 29, 2014 is AFFIRMED.

However, your case is returned to the Marketplace for redetermination of your eligibility and your son's eligibility for financial assistance. The Marketplace should determine eligibility based on a two-person household and with a monthly 2014 income of \$1,620.00.

Effective Date of this Decision: November 5, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$23.00 per month and, if you select a silver-level qualified health plan, for cost-sharing reductions.

Your son remains eligible for CHP with a monthly premium responsibility of \$9.00.

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Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance as of August 1, 2014, based on your two-person household and August 2014 income of \$1,620.00.

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

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Summary

The July 29, 2014 eligibility determination is **AFFIRMED**.

You remain eligible to receive an advance premium tax credit of up to \$23.00 per month and, if you select a silver-level qualified health plan, for cost-sharing reductions.

Your son remains eligible for CHP with a monthly premium responsibility of \$9.00.

Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on your two-person household and a monthly income of \$1,620.00.

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]