



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

Notice of Decision

Decision Date: November 21, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000765

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On November 10, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace’s July 30, 2014 notice of 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).

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

Did the Marketplace properly determine that you were eligible to enroll in a qualified health plan through the Marketplace, but that you were not eligible for financial assistance for health insurance?

Procedural History

The Marketplace received your application for health insurance on March 18, 2014.

On July 29, 2014, your application for health insurance was updated and resubmitted. The Marketplace made a preliminary determination that you were not eligible for financial assistance.

On July 29, 2014, you spoke to the Marketplace Customer Service unit and appealed that preliminary determination.

On July 30, 2014, an eligibility determination notice was issued and confirmed the July 29, 2014 preliminary eligibility determination. The notice stated that you were eligible to enroll in a qualified health plan. It also stated: "You are not eligible to receive tax credits to help pay for the cost of your insurance because you said you will not be filing a federal tax return in the upcoming tax year. You must file a federal tax return to be determined eligible for the tax credit. If your circumstances change, you may reapply through the Marketplace." You were also not eligible for CSR because you were not eligible for APTC.

On November 5, 2014, your application for health insurance was updated again to say that you do not need health insurance.

On November 10, 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) According to your July 29, 2014 application, there are three people in your household: you, your spouse, and your minor child.
- 2) On your July 29, 2014 application, you attested to the following household income, all in the form of Title II benefits: \$7,224.00 for yourself, \$17,880.00 for your spouse, and \$7,224.00 for your child.
- 3) You testified that no one will be claiming you as a dependent for the 2014 tax year.
- 4) You testified that you and your husband do not intend to file a tax return for the 2014 tax year.
- 5) You testified that you and your husband do not need to file a tax return for 2014 because the only income you receive is from your husband's disability benefits and you do not have to pay taxes on that income.
- 6) You testified that you have not filed a tax return since 2002.
- 7) You testified that you did not know that you could file a tax return even if you are not required to do so and even if you owed no taxes.
- 8) You testified that you do not plan to file a tax return for 2014 or in the future even if you can file a tax return.
- 9) You testified that you cannot afford a health insurance plan without financial assistance.

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

Applicable Law and Regulations

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 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 (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

Social Security benefits under Title II, taxable and nontaxable, are included when determining modified adjusted gross income (see NY Soc. Serv. Law § 366(1)(a), (b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2014 FPL, which is \$19,530.00 for a three-person household (79 Fed. Reg. 3593, 3593).

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 his or her tax return for an applicant who meets the eligibility requirements to enroll in a qualified health plan 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).

NY State of Health may authorize APTC only when it obtains certain necessary attestations from the tax filer, including an attestation that she will file an income tax return for the benefit year (45 CFR § 155.310(d)(2)(ii)(A)). A tax filer who is married must generally 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).

Cost-sharing reductions (CSR) are available only to a person who (1) is eligible to enroll in a qualified health plan 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% of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level qualified health plan (45 CFR § 155.305(g)(1)).

Legal Analysis

The issue under review is whether the Marketplace properly found that you were eligible to enroll in a qualified health plan through the Marketplace, but were not eligible for financial assistance for health insurance.

Medicaid benefits can be provided to an adult between the ages of 19 and 65 who has a household income no higher than 138% of the federal poverty level (FPL). Since the 2014 FPL for a three-person household is \$19,530.00, you would be eligible for Medicaid coverage with an income up to \$26,951.00.

On your July 29, 2014 application you indicated that your household expects to receive \$32,328.00 in Title II benefits during 2014. These benefits are counted as modified adjusted gross income when determining Medicaid eligibility. Since your household income of \$32,328.00 is higher than the Medicaid financial eligibility limit of \$26,951.00, the July 30, 2014 determination was correct when it said you were not eligible for Medicaid.

To be eligible for an advance premium tax credit to help pay for the cost of health insurance during the 2014 tax year, a person must attest to planning on filing a 2014 tax return. Most married individuals must file a joint return with their spouse in order to qualify for an advance premium tax credit.

You testified that you have not filed a tax return since 2002 and do not plan to file a tax return for 2014 because you are not required to. You further testified that even though you could file a return, even if you are not required to, you do not plan to file one for the 2014 tax year. Since you have testified that you do not expect to file a tax return for 2014, the Marketplace cannot approve an advance premium tax credit.

To be eligible for cost-sharing reductions a person must be found eligible for advance premium tax credit. Since you are not eligible for an advance premium tax credit, you also are not eligible for cost-sharing reductions.

Since the July 30, 2014 eligibility determination correctly stated that you are not eligible for Medicaid benefits, advance premium tax credit, or cost sharing reductions, it is correct and is AFFIRMED.

Decision

The July 30, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 21, 2014

How this Decision Affects Your Eligibility

You remain eligible to enroll in a qualified health plan through the Marketplace.

You are not eligible for an advance premium tax credit during 2014 because you attested that you do not plan to file a 2014 tax return.

You are not eligible for cost-sharing reductions because you are not eligible for the advance premium tax credit.

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 September 30, 2014 eligibility determination is **AFFIRMED**.

You remain eligible to enroll in a qualified health plan through the Marketplace.

You are not eligible for an advance premium tax credit during 2014 because you attested that you do not plan to file a 2014 tax return.

You are not eligible for cost-sharing reductions because you are not eligible for the advance premium tax credit.

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]