



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

Notice of Decision

Decision Date: October 14, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000768

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

Dear [REDACTED]

On August 22, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 2, 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] [REDACTED] are eligible for \$446.00 monthly of advance premium tax credit and, while enrolled in a silver level plan, cost-sharing reductions as of July 1, 2014?

Did the Marketplace properly determine that [REDACTED] [REDACTED] are not eligible for Medicaid coverage as of July 1, 2014?

Procedural History

The Marketplace received your application on March 25, 2014. You updated your application several times thereafter.

On July 2, 2014, the Marketplace issued a notice of eligibility redetermination in your case. It said that you, your husband, and your son, [REDACTED], are eligible to receive up to \$446.00 monthly of advance premium tax credit (APTC) and cost-sharing reductions (CSR) provided you enrolled in a silver level qualified health plan. It also said that you are not eligible for Medicaid because your household income of \$63,700.01 is over the allowable limit of \$38,516.00. The notice granted a special enrollment period, giving you until September 13, 2014 to select your health plans (NYSOH Exhibit 1).

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On July 29, 2014, you spoke with Marketplace Customer Service and appealed that redetermination.

On August 22, 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) You and your husband live together with your three children in Albany County (Appellant's Testimony of 8/22/2014; Marketplace Application).
- 2) You and your husband plan on filing your 2014 taxes as married filing jointly and claiming your three children as dependents (Appellant's Testimony of 8/22/2014; Marketplace Application).
- 3) You, your husband and your son, [REDACTED] are the only members of your family who are seeking health insurance through the Marketplace.
- 4) You came to the United States in August 2013 and your husband and son came in September 2013. You are all immigrant non-citizens and are lawfully present (Appellant's Testimony of 8/22/2014; Marketplace Application).
- 5) You testified that you expect to earn \$46,800.01 in 2014 and your husband expects to earn \$16,900.00. Your application as of July 1, 2014 reflects these amounts as well (Appellant's Testimony of 8/22/2014; Marketplace Application).
- 6) Your Medicaid coverage terminated on May 1, 2014, because your salary put you over income (Appellant's Testimony of 8/22/2014).
- 7) You chose Fidelis Silver through the Marketplace as your qualified health plan because you had Fidelis through Medicaid and wanted to stay with that insurer (Appellant's Testimony of 8/22/2014; NYSOH Exhibit 2).
- 8) You paid a premium amount for one month of \$393.12, but the health plan did not include your husband. You testified that a representative from Fidelis said an insurance application for your

husband had been sent but you have not yet received it (Appellant's Testimony of 8/22/2014).

- 9) You stated that your expected monthly contribution of \$528.85 for three people was too much and you could not afford to pay that monthly amount.
- 10) You requested that the Marketplace allow you to choose a less expensive health plan for your family or allow you to get Medicaid again.

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

Applicable Law and Regulations

Medicaid is provided through the Marketplace to adults who meet all the following criteria: (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 federal poverty level for the applicable family size (42 CFR § 435.119(b), 42 CFR 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

The 2014 federal poverty level (FPL) for a five-person household is \$27,910.00 (79 Fed. Reg. 3593 (2014)).

Eligibility for advance premium tax credit (APTC) is based on the taxpayer's modified adjusted gross income (MAGI) 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)).

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

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(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 that is at least 200% but less than 250% of the 2013 federal poverty level (FPL), the expected contribution is from 6.30% to 8.05% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

For a five-person household, the 2013 FPL is \$27,570 (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 credit, (3) is expected to have a household income that does not exceed 250% of the FPL for the plan year coverage is requested (2013) and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. 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 currently defers to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)). If you wish to be considered for a hardship exemption, consult the Federal Marketplace website (www.healthcare.gov) for an additional information and an application.

Legal Analysis

The issues are whether the Marketplace properly determined that you are not eligible for Medicaid and are eligible for an advance premium tax credit (APTC) of up to \$446.00 per month and, if enrolled in a silver level qualified health plan (QHP), eligible for cost-sharing reductions (CSR).

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There are five people in your household: you, your husband, and your three dependent children.

You credibly testified that you have an expected 2014 household income of \$63,700.01. This matches what you reported on your Marketplace application: \$46,800.01 for yourself and \$16,900.00 for your spouse.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 if their household income is no higher than 138% of the current federal poverty level (FPL), which is \$27,910.00 for a five-person household. Since your household income of \$63,700.01 is more than \$38,516 (138% of \$27,910.00), you, your spouse, and your son, [REDACTED], are not eligible for Medicaid.

However, your household income is within the limits to qualify for APTC.

You reside in Albany County, where the second lowest cost silver plan available through the Marketplace for a couple and one dependent costs \$838.30 per month.

Your expected income for 2014 is \$63,700.01, which is 231.05% of the 2013 FPL for a five-person household. At 231.05% of the FPL, the expected contribution to the cost of the health insurance premium is 7.39% of income, or \$392.11 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$838.30 per month) minus your expected contribution (\$392.29 per month), which equals \$446.01 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$446.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 231.05% of the FPL, the Marketplace correctly determined that you are eligible for cost-sharing reductions.

Therefore, the July 2, 2014 eligibility determination is supported by the record and is AFFIRMED.

However, you stated that you cannot afford to pay for the monthly premium of silver-level health plan even with APTC and CSR. If you wish to be considered for a hardship exemption, consult the Federal Marketplace website (www.healthcare.gov) for an additional information and an application.

Decision

The July 2, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 14, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You are not eligible for Medicaid.

The Marketplace correctly determined the amount of your advance premium tax credit. You, your husband, and your son remain eligible for an advance premium tax credit of up to \$446.00 per month and, while you all are enrolled in a silver level plan through the Marketplace, for cost-sharing reductions.

If you wish to apply for a hardship exemption, you may do so directly to the U.S. Department of Health and Human Services.

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

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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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 2, 2014 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

You are not eligible for Medicaid.

The Marketplace correctly determined the amount of your advance premium tax credit. You, your husband, and your son remain eligible for an advance premium tax credit of up to \$446.00 per month and, while you all are enrolled in a silver level plan through the Marketplace, for cost-sharing reductions.

If you wish to apply for a hardship exemption, you may do so directly to the U.S. Department of Health and Human Services.

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]