



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

Notice of Decision

Decision Date: October 20, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000775

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 9, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 1, 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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Issues

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

Did the Marketplace properly determine that you were eligible for advanced premium tax credit in the amount of \$252.00 and cost-sharing reductions as of August 1, 2014?

Did the Marketplace properly determine that you were not eligible for Medicaid as of August 1, 2014?

Procedural History

The Marketplace received your initial application for health insurance on March 21, 2014.

On March 22, 2014, the Marketplace issued a notice of eligibility determination stating that you are eligible to enroll in a qualified health plan (QHP) and not eligible to receive tax credits because you are currently enrolled in an employer-sponsored health insurance plan that provides minimum essential coverage.

On July 31, 2014, you submitted three modified applications to the Marketplace on three separate occasions. You also uploaded additional income documentation through the Marketplace portal. The final preliminary determination of the day stated that, with an annual household income of \$23,452.00, you are eligible for advance premium tax credit (APTC) up to \$252.00 per month and eligible for cost-sharing reductions (CSR).

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On July 31, 2014, you spoke to Marketplace Customer Service and submitted an appeal request.

On August 1, 2014, the Marketplace issued a notice of eligibility redetermination consistent with the July 31, 2014 preliminary determination. It stated that you remain eligible to enroll in a QHP, to receive up to \$252.00 monthly of advance premium tax credit (APTC), and to receive cost-sharing reductions (CSR) provided you are enrolled in a silver level QHP. It also stated that you were not eligible for Medicaid because your household income was over the allowable limit.

On September 9, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you plan on filing your 2014 tax return as single and will claim no dependents on that tax return.
- 2) You testified and provided evidence that your last day of employment was June 26, 2014.
- 3) According to your July 31 Marketplace application, your 2014 expected income is \$23,452.00. You expect \$16,000.00 in earned income and to collect \$7,452.00 in unemployment insurance benefits.
- 4) On July 31, 2014 you uploaded to the Marketplace portal a screenshot of your unemployment insurance account information. You were approved for unemployment benefits with an effective date of June 30, 2014 and a weekly benefit amount of \$324.00 (Appellant Exhibit A).
- 5) You testified that you received three unemployment weekly payments in July 2014 and four payments in August 2014.
- 6) You applied for health insurance through the Marketplace in July 2014.
- 7) You testified that since June 26, 2014, the only income you have received is from unemployment benefits.
- 8) According to your Marketplace application, you reside in Suffolk County, New York.

- 9) According to your Marketplace application, you are not currently receiving Medicaid benefits.

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

Applicable Law and Regulations

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2013 federal poverty level; (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan; and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

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 annual household income (26 USC § 36B(b)(3)(A)).

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

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

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have an annual household

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income that does not exceed 250% 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 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 for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), 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).

Legal Analysis

According to the record, you are the only member of your tax household. You expect to file as single on your 2014 federal income tax return for 2014 and claim no dependents.

You reside in Suffolk County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$378.00 per month.

According to your Marketplace application and your evidence at the hearing, your 2014 expected income is \$23,452.00. You expect \$16,000.00 in earned income and to collect \$7,452.00 in unemployment insurance benefits. This supports a finding that your expected 2014 income is \$23,452.00, which is the household income used for the August 1, 2014 determination.

An annual household income of \$23,452.00 equals 204.11% of the 2013 FPL for a one-person household. At 204.11% of the FPL, the expected contribution to the cost of the health insurance premium is 6.44% of income, or \$125.86 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$378.00 per month) minus your expected contribution (\$125.86 per month), which equals \$252.14 per month. Therefore, the Marketplace correctly computed your APTC to be \$252.00 per month on an expected-income basis.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is

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204.11% of the FPL for purposes of APTC and CSR, you were correctly found eligible for cost-sharing reductions.

However, at the hearing you testified that your 2014 expected annual household income no longer reflects your current income situation and that you would like your financial eligibility to be reconsidered.

You credibly testified that the only income you received during July 2014, the month during which you submitted your application, consisted of unemployment benefits. You testified that you received three checks, for \$324.00 each, during July. Therefore, your income for July is \$972.00.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Since the record suggests that the Marketplace calculated your July 31, 2014 eligibility by expected annual income and not by monthly income, the case should be returned to the Marketplace for an eligibility determination on monthly income.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a one-person household with a July 2014 income of \$972.00.

Decision

The August 1, 2014 eligibility determination is AFFIRMED.

This case is returned to the Marketplace to redetermine eligibility for a one-person household with a July 2014 income of \$972.00.

Effective Date of this Decision: October 20, 2014

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$252.00 per month and cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and a July 2014 income of \$972.00.

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
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- By fax: 1-855-900-5557

Summary

The August 1, 2014 eligibility determination is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$252.00 per month and cost-sharing reductions.

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Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and a July 2014 income of \$972.00.

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]