



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: AP000000000789

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On September 17, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 2, 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 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).

This page intentionally left blank.



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

Decision

Decision Date: November 5, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000789

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that [REDACTED] was eligible for up to \$205.00 per month in advance premium tax credit as of August 2, 2014?

Did the Marketplace properly determine that [REDACTED] was not eligible for Medicaid as of August 2, 2014?

Procedural History

The Marketplace received your initial application for health insurance on November 10, 2013.

Your application was resubmitted several times between November 10, 2013 and August 2, 2014.

On August 3, 2014, the Marketplace issued a determination on your August 2, 2014 application. It stated that you were temporarily eligible to enroll in a qualified health plan through the Marketplace; receive \$205.00 per month in advance premium tax credit; and receive cost-sharing reductions, provided you were enrolled in a silver level health plan through the Marketplace. You were not determined eligible for Medicaid because your household income of \$20,390.00 was over the allowable income limit of \$16,105.00. That notice asked you to submit additional information on your income within 90 days.

On August 5, 2014, you spoke with the Marketplace's Customer Service Unit and appealed that determination.

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).

On September 17, 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 up to 15 days to allow you to submit supporting evidence. The Marketplace's Appeals Unit received a letter sent by you on September 26, 2014, confirming that the termination letter from your former employer was mailed. On September 29, 2014, the Marketplace's Appeals Unit received correspondence from your employer on company letterhead, signed and dated. The record was then closed.

Findings of Fact

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

- 1) You testified that you live with your domestic partner, [REDACTED]
- 2) You testified that you expect to file your 2014 income tax return as single and do not expect to claim any dependents. You also do not expect anyone to claim you as a dependent.
- 3) You testified that you are currently unemployed and that you were laid off due to a medical condition that prevented you from working.
- 4) September 29, 2014 correspondence from your former employer's regional human resources director says that you were laid off "[REDACTED] [REDACTED] due to lack of work effective May 07, 2014."
- 5) You applied for health insurance through the Marketplace several times, with the most recent application dated August 2, 2014. In that last Marketplace application, you attested to an expected household income of \$20,390.00 for 2014. You testified that this income is not an accurate reflection of your current income. You further testified that you earned \$9,990.00 from your employer between January 1, 2014 and your last day of work. You explained that the attested income in your Marketplace application was the sum of your earned income and projected of Unemployment Benefits in the amount of \$10,400.00.
- 6) You testified that before you were laid off, you were put on a medical leave. You testified that because you were on medical leave, you did not work during the month of June 2014. However, you submitted evidence that you were laid off effective May 7, 2014.
- 7) You testified that you worked as a [REDACTED] for [REDACTED] [REDACTED] and would go through cycles of unemployment when classes

were not in session. Because of this, you had a continuous unemployment benefit application in progress.

- 8) You testified and provided evidence that after your employment was terminated, you received your first unemployment benefit payment on June 25, 2014 in the gross amount of \$405.00.
- 9) During the month of June 2014, you received two unemployment benefit payments, one on June 25, 2014 and the other on June 30, 2014. Each payment was in the gross amount of \$405.00.
- 10) You testified that you have applied for Social Security benefits and do not currently receive any other income.
- 11) You currently reside in Schenectady County, New York.

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 advance premium tax credit 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 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

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).

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 150% but less than 200% of the 2013 federal poverty level, the expected contribution is between 4.00% and 6.30% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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

An individual is eligible for enrollment in Medicaid 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)).

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 435.603(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).

Once an individual becomes eligible for Medicaid, they are not eligible for APTC (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(2)).

Legal Analysis

The matters at issue are whether, as of August 2, 2014, you were eligible for up to \$205.00 per month in advance premium tax credit (APTC) and ineligible for Medicaid.

According to the record, you expect to file as single on your tax return for 2014 and do not expect to claim any dependents. Therefore, you are in a household of one person.

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).

A one-person household may qualify for an advance premium tax credit if the annual household income is between \$15,857.00 (138% of the Federal Poverty Level) and \$45,960.00 (400% of the Federal Poverty Level).

You reside in Schenectady County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$294.14 per month.

According to your application and your September 17, 2014 testimony, you had an expected 2014 income of \$20,390.00 when you completed your application on August 2, 2014. This consisted of your wages until May 7, 2014 (\$9,990.00) plus the maximum amount of unemployment benefits you were approved for (\$10,400.00). An annual household income of \$20,390.00 equals 177.46% of the 2013 federal poverty level for a one-person household. At 177.46% of the federal poverty level, the expected contribution to the cost of the health insurance premium is 5.26% of income, or \$89.38 per month.

The maximum amount of advance premium tax credit that can be awarded equals the cost of the second lowest cost silver plan in your county (\$294.14 per month) minus your expected contribution (\$89.38 per month), which equals \$204.76 per month. Therefore, the Marketplace correctly computed your advance premium tax credit, to the nearest dollar, to be \$205.00 per month.

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

You provided evidence that your employment ended on May 7, 2014, and that you began receiving unemployment benefits in June 2014. During June you received two benefit payments, both in the gross amount of \$405.00.

You reapplied for health insurance through the Marketplace in August 2014, and financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. You credibly testified that your only income since your job ended has been unemployment benefits of \$405.00 per week. During August, you received four unemployment benefit payments. Therefore, your income for August, the month you resubmitted your application, was \$1,620.00.

Medicaid may be provided to an adult who has a modified adjusted gross household income under 138% of the 2014 federal poverty level FPL. The 2014 FPL for a one-person household is \$11,670.00, so Medicaid can be approved at a household income up to \$16,105.00 for the year (138% of \$11,670.00). This works out to \$1,343.00 for a single month.

Since your August income of \$1,620.00 was higher than the income limit of \$1,343.00, you were not eligible for Medicaid as of August 2, 2014.

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).

Since the August 3, 2014 determination properly stated that as of August 2 you were eligible for up to \$205.00 per month in APTC and ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

The August 3, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 5, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible for \$205.00 per month in 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 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).

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 August 2, 2014 eligibility determination is AFFIRMED.

You remain eligible for \$205.00 per month in 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]