



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

Notice of Decision

Decision Date: December 16, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000797

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 10, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 7, 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 letter.

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 not eligible for advance premium tax credit to help pay for the cost of health insurance because your income was over the allowable limit as of August 6, 2014?

Did the Marketplace properly determine that, as of August 6, 2014, you were not eligible to receive cost-sharing reductions?

Did the Marketplace properly determine that you were not eligible for Medicaid as of August 6, 2014?

Procedural History

The Marketplace received your original non-financial application for health insurance on January 1, 2014. That same day, an eligibility determination was issued which stated that you were eligible to enroll in a qualified health plan.

On June 16, 2014, you submitted a paper application for medical assistance and food stamps to your local department of social services. That application was forwarded to the New York State of Health Marketplace and used to update your online account.

On August 6, 2014, a Customer Service representative was able to contact you in regards to your application. An online application was created on your behalf and you received a preliminary eligibility determination which stated that you were not eligible for financial assistance.

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That same day, you spoke to the Marketplace Account Review unit and you appealed that preliminary eligibility determination.

On August 7, 2014, an eligibility determination notice was issued which was consistent with the August 6, 2014 preliminary eligibility determination. The notice stated that you were eligible to enroll in a qualified health plan; however, you were not eligible to receive advance premium tax credits to help pay for the cost of your health insurance because the household income you provided of \$56,000.00 was over the allowable income limit of \$45,960.00, and you were not eligible for cost-sharing reductions because your household income was over the allowable income limit of \$28,725.00. You were also not eligible for Medicaid because your household income was over the allowable income limit of \$16,105.00.

On September 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 was left open for 15 days to allow you time to submit evidence of the date of your last day of employment, the severance package you received from your former employer, and your denial of unemployment benefits. Later that day, the requested evidence was faxed to the Appeals Unit. The record is now closed.

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 live in Orange County.
- 3) You testified that your last day of employment was June 2, 2014. In a letter dated June 23, 2014, on company letterhead, a Human Resources Generalist states that you were employed with [REDACTED] from June 3, 2005 through June 2, 2014.
- 4) You testified that your total income from employment from January 1, 2014 to June 2, 2014 was \$31,000.00.
- 5) You testified that you received a severance package from your former employer. The record contains an unsigned Separation Agreement and General Release. On the fourth page of the agreement it states that your former employer agrees to pay you \$25,143.57 in severance pay.
- 6) You testified that you applied for and were found not eligible for unemployment benefits at the end of June. A June 18, 2014 Notice of

Determination from the Department of Labor states that you are not eligible for benefits from June 2, 2014 to September 28, 2014 because the severance payment put your average weekly wage over the state's maximum benefit rate for that period.

- 7) The June 18, 2014 Notice of Determination states that you must file a new claim after September 28, 2014, if you want benefits after your severance period expires.
- 8) You testified that you received \$0.00 in income for the months of July and August. You also reasonably expect to make \$0.00 in the month of September.

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

Applicable Law and Regulations

Advance Premium Tax Credit and Cost-Sharing Reductions

The advance premium tax credit (APTC) 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 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)).

Cost-sharing reductions (CSR) are available only 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 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)).

In an analysis of APTC and CSR eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested. (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2013 FPL, which is \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

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

Medicaid

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)).

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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 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 March 19, 2014).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were not eligible for an advance premium tax credit (APTC) because you were over the allowable income limit.

Since you plan to file your 2014 income tax return as single and to claim no dependents, you are in a one-person household.

According to the credible evidence of record, your 2014 gross income as of the date of your hearing was \$56,143.57. This consists of \$31,000.00 in earnings through June 2, 2014 and your severance payment of \$25,143.57.

Since the annual 2013 FPL for a one-person household is \$11,490.00, you may qualify for APTC if your annual household income is between \$15,857.00 (138% FPL) and \$45,960.00 (400% FPL).

Your household income of \$56,143.57 places you at 488.63% of the FPL. The maximum income amount for APTC eligibility for a one-person household is \$45,960.00 (400.00% FPL). Since you earn more than the allowable maximum for this program, you are not eligible for APTC.

The second issue is whether the Marketplace properly determined that you were not eligible for cost-sharing reductions (CSR). CSRs are available to a person

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who is eligible to receive APTC and has an annual household income that does not exceed 250% of the FPL. Since you are not eligible for APTC and your income exceeds 250% of the FPL, you are also not eligible for CSR.

The third issue is whether the Marketplace properly found you not eligible for Medicaid. Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138.0% of the FPL for the applicable family size. On the date of your application, the relevant FPL was the 2014 FPL of \$11,670.00 for a one-person household. Since \$56,143.57 is 481.09% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, based on the information provided.

Since the August 7, 2014 determination properly stated that, based on the information you provided, you were not eligible for APTC, not eligible for CSR, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicated that the information contained on your application no longer reflects your current income situation. You testified that you have not received any additional income since you received your severance check from your employer. You further testified that you do not expect to receive any further income until you are permitted to reapply for unemployment benefits on September 28, 2014. Therefore, your monthly income for August 2014 was \$0.00.

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 August 7, 2014 eligibility by expected annual income but not by monthly income, the case should be returned to the Marketplace for a redetermination of eligibility using an expected 2014 and income of \$56,143.57 and an income for the month of August of \$0.00.

Therefore, your case is returned to the Marketplace to redetermine eligibility for financial assistance based on a one-person household with an August 2014 monthly income of \$0.00.

Decision

The August 7, 2014 eligibility determination is AFFIRMED.

Your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on an expected 2014 annual income of \$56,143.57, and an income of \$0.00 for the month of August 2014.

Effective Date of this Decision: December 16, 2014

How this Decision Affects Your Eligibility

This decision does not decide your final eligibility.

It returns your case to the Marketplace to redetermine your eligibility based on your corrected 2014 annual income and on an income of \$0.00 for the month of August 2014.

The Marketplace will redetermine your eligibility and issue a new eligibility determination notice.

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:

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- By fax: 1-855-900-5557

Summary

The August 7, 2014 eligibility determination is **AFFIRMED**.

This decision does not decide your final eligibility.

Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on an expected 2014 annual income of \$56,143.57, and an income of \$0.00 for the month of August 2014.

The Marketplace will redetermine your eligibility and issue a new eligibility determination notice.

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]