



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: AP000000000800

[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 July 30, 2014; August 4, 2014; and August 5, 2014 eligibility determinations.

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

Did the Marketplace properly determine that you and your wife were eligible for \$5.00 per month in advance premium tax credit, but that you were ineligible for both cost-sharing reductions and Medicaid?

Procedural History

The Marketplace received your household's application for health insurance on May 27, 2014. The next day, an eligibility determination was issued which stated that you were temporarily eligible to enroll in a qualified health plan (QHP) and to receive tax credit to help pay for your insurance. However, additional information was needed to make a final determination on your application.

On May 30, 2014; July 16, 2014; and July 17, 2014, additional notices were generated requesting you submit additional information to the Marketplace.

On May 27, 2014; July 15, 2014; July 16, 2014; July 28, 2014; and July 29, 2014, you uploaded income documentation on behalf of yourself and your wife.

On July 29, 2014, your application for health insurance was modified to reflect an annual expected income of \$82,822.65. The application listed your residence as being in the Village of Brewster, in Putnam County.

On July 30, 2014 and on August 4, 2014, eligibility determination notices were issued based on the July 29, 2014 application. The notices stated that you and your wife were temporarily eligible to enroll in a QHP, and to receive up to \$5.00 per month in advance premium tax credit (APTC). You and your wife were not

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eligible for cost-sharing reductions (CSR) or for Medicaid because your household income was over the allowable limits.

On August 4, 2014, your eligibility was redetermined, again on a household income of \$82,822.65. Your mailing address did not change, but this application stated that Brewster was in Westchester County. That same day, the Marketplace prepared a preliminary determination that, with a Westchester County residence, you and your wife were eligible to enroll in a QHP and to receive up to \$111.00 per month in APTC.

On August 4, 2014, you spoke with the Marketplace's Customer Service Unit and appealed the determinations.

On August 5, 2014, the Marketplace issued a notice of eligibility determination that was consistent with the August 4, 2014 preliminary determination.

On September 4, 2014, you were scheduled to appear for a telephone hearing. A Hearing Officer from the Marketplace's Appeals Unit called you and adjourned the hearing at your request.

On September 10, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During that hearing, you waived your right, on the record, to formal notice. The record was developed during the hearing and left open for 15 days to provide you additional time to submit evidence. No evidence was received within the allotted time. The record is now closed.

Findings of Fact

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

- 1) You testified that you and your wife plan to file your 2014 income tax return as married filing jointly and claim your two children as dependents on that tax return.
- 2) You testified that you were last employed on July 9, 2014.
- 3) You testified that up until July 9, 2014 you received \$42,307.65 in earned income.
- 4) You testified that you received your last paycheck from your job during July. You further testified that the gross amount of your last paycheck was \$1,900.00.
- 5) You testified that you applied for unemployment benefits on July 14, 2014. You were approved for a gross weekly benefit amount of \$405.00.

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- 6) You testified that you received your first unemployment benefits check on July 23, 2014 and have received weekly checks since then.
- 7) You testified that in total you expect to receive \$9,315.00 in unemployment benefits during 2014.
- 8) You testified that as of the July 30, 2014 eligibility determination date, your wife's 2014 annual expected income was \$31,200.00.
- 9) You provided evidence in the form of paychecks that for the month of July your wife's income was \$3,342.18. This includes a check dated July 3, 2014 for a gross pay amount of \$898.98, a check dated July 11, 2014 for a gross pay amount of \$450.00, a check dated July 18, 2014 for a gross pay amount of \$969.88, and a check dated July 25, 2014 for a gross pay amount of \$1,023.32.
- 10) You testified that neither of your dependents will make enough money this year to be required to file a tax return.
- 11) You testified that you are financially unable to pay for health insurance and the expected yearly income previously entered on your application no longer accurately reflects your current monthly income.
- 12) You testified that you reside in Putnam County and have resided in Putnam County since you first applied for health insurance through the Marketplace in May.
- 13) You are currently appealing your and your wife's eligibility determinations; your children have been approved for coverage under Child Health Plus, at a premium of \$45.00 per child.

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

The 2014 FPL for a four-person household is \$23,850.00 per year (79 Fed Reg 3593 (2014)).

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).

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 FPL, and (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 is not eligible for minimum essential coverage except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR § 1.36B-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

(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 300% but less than 400% of the FPL for the plan year coverage is requested (2013), the expected contribution is 9.5% of annual household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR §155.300(a)).

The 2013 FPL for a four-person household is \$23,550.00 per year (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 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)).

Legal Analysis

The first question is whether the Marketplace properly determined that you and your wife are not eligible for Medicaid.

Medicaid is available to adults who meet the nonfinancial criteria and have a household income that is no higher than 138% of the 2014 federal poverty level (FPL). Since the 2014 FPL for a four-person household is \$23,850.00, the income limit for Medicaid is \$32,913.00 per year (138% of the FPL), or \$2,743.00 per month.

You testified that during July you began receiving unemployment benefits in the amount of \$405.00 per week. You received your first check on July 23, 2014 and received a check every week thereafter. You would have received another check on July 30, 2014, making your monthly income from unemployment benefits for July 2014 in the amount of \$810.00. You further testified that you received your last paycheck from your job on July 9, 2014 for a gross pay amount of \$1,900.00. Therefore, your total gross income for the month of July was \$2,710.00. You submitted your wife's July 2014 paystubs, which indicate that her gross income was \$3,342.18 for the month. Thus, your household income totaled \$6,052.18 for the month of July and, at that level, exceeded the limit for Medicaid eligibility.

Your Medicaid eligibility cannot be calculated for any other month other than July, because that is the only month for which complete information your household's gross income appears in the record. However it can be noted that, at \$3,342.18, your wife's monthly income would exceed the threshold for Medicaid eligibility on its own.

The next question is whether the Marketplace properly calculated the amount of your advance premium tax credit (APTC). One of the factors used to calculate the amount of APTC a person receives is county of residence. You testified that you reside in Putnam County; however, the eligibility determination issued on August 5, 2014 was prepared based in part on residency in Westchester County, which is incorrect. Therefore, the Marketplace must RESCIND the eligibility determination dated August 5, 2014 because it was prepared using the incorrect county of residence.

The July 30, 2014 and August 4, 2014 eligibility determinations were prepared using the correct county of Putnam. Each of these notices stated that your annual expected household income for 2014 was \$82,822.65. You were given the opportunity, during and after the hearing, to submit documentation to show that this amount is incorrect. Since no additional documentation has been received, the most reliable evidence of record indicates that your expected annual household for 2014 is \$82,822.65.

According to the record, you and your wife expect to file your 2014 income tax return as married filing jointly and to claim two dependents. Therefore, you are in a household of four people.

You and your wife reside in Putnam County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$660.82 per month.

Annual household income of \$82,822.65 equals 351.69% of the 2013 FPL for a four-person household. At 351.69% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$655.68 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$660.82 per month) minus your expected contribution (\$655.68 per month), which equals \$5.14 per month. Therefore, the Marketplace, rounding to the nearest dollar, correctly computed your APTC to be \$5.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the 2013 FPL. Since your annual household income is 351.69% of the 2013 FPL, you were correctly found not eligible for cost-sharing reductions.

Decision

The August 5, 2014 eligibility determination is RESCINDED because it was based on an incorrect county of residence.

The July 30, 2014 and August 4, 2014 eligibility determinations are AFFIRMED.

Effective Date of this Decision: October 20, 2014

How this Decision Affects Your Eligibility

The July 30, 2014 and August 4, 2014 eligibility determinations are correct.

However, after your hearing your Marketplace application was updated to indicate a household income of \$95,070.99. The Marketplace issued a September 10, 2014 notice of redetermination on that new information. With a household income of \$95,070.99 you are eligible to remain enrolled in a qualified health plan through the Marketplace but are not eligible for Medicaid, an advance premium tax credit, or cost-sharing reductions.

The September 10, 2014 notice of redetermination supersedes the July 30, 2014 and August 4, 2014 notices; and it is the notice that remains in effect.

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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 5, 2014 eligibility determination is **RESCINDED** because it was based on an incorrect county of residence.

The July 30, 2014 and August 4, 2014 eligibility determinations are correct and so are **AFFIRMED**.

However, after your hearing your Marketplace application was updated to indicate a household income of \$95,070.99. The Marketplace issued a September 10, 2014 notice of redetermination on that new information. With a household income of \$95,070.99 you are eligible to remain enrolled in a qualified health plan through the Marketplace but are not eligible for Medicaid, an advance premium tax credit, or cost-sharing reductions.

The September 10, 2014 notice of redetermination replaces the notices that were appealed, and it remains in effect.

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]