



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

Notice of Decision

Decision Date: November 10, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000806

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 26, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 8, 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 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).

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NY State of Health Number: [REDACTED]
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[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 an advance premium tax credit in the amount of \$221.00 and cost-sharing reductions as of August 8, 2014?

Did the Marketplace properly determine that [REDACTED] was not eligible for Medicaid as of August 8, 2014?

Procedural History

On July 11, 2014, you filed an initial application for health insurance through the Marketplace for yourself, your husband, and your mother.

On August 7, 2014, you resubmitted the health insurance application for yourself, your husband, and your mother. The Marketplace made a preliminary determination that, with an expected household income of \$35,096.00, you qualified for Medicaid; your husband qualified for advance premium tax credit (APTC) of up to \$221.00 per month and for cost-sharing reductions; and your mother, who has Medicaid, did not qualify for additional financial assistance.

On August 7, 2014, you spoke to Marketplace Customer Service and appealed the preliminary determination insofar as it did not find your husband eligible for more APTC or for Medicaid.

On August 8, 2014, the Marketplace issued three eligibility determination notices, two addressing your husband's eligibility. One states that, with a household income of \$35,096.00 he is eligible to enroll in a health plan through the

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Marketplace with APTC and cost-sharing reductions but not eligible for Medicaid coverage. It also states that he has a special enrollment period, through September 27, 2014, to enroll in a health plan through the Marketplace, until September 27, 2014. His second notice confirms that special enrollment period.

On September 26, 2014, you had a telephone hearing. Testimony was taken at the hearing with the assistance of a Spanish Interpreter [REDACTED]. The record was held open until October 10, 2014 to allow you to submit additional documentation.

On September 26, 2014, you submitted additional documentation consisting of statements of earnings and deductions from [REDACTED]. The evidence was made part of the record as Appellant's Exhibit "C," and the record was closed. The record is now complete and closed.

Findings of Fact

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

1. Your application states that you currently live with your husband and your mother.
2. You testified that you and your husband plan on filing your 2014 federal income tax return as married filing jointly and will claim one dependent, your mother, on that tax return.
3. You testified that you are currently pregnant.
4. You testified that your only employer during 2014 has been [REDACTED].
5. You submitted statements of earnings and deductions from [REDACTED] on July 29, 2014 and September 26, 2014 (Appellant Exhibits A and C).
6. Your Marketplace applications indicate that you applied for health insurance through the Marketplace during July and August 2014.
7. According to your employer's statements of earnings and deductions, you received the following wages during August 2014: \$710.45 on August 4, \$710.45 on August 11, \$710.45 on August 18, and \$710.45 on August 25.
8. You indicated on your application and testified that your 2014 expected yearly income is \$35,096.00.

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9. You testified that your husband and mother have \$0.00 income for 2014.

10. You reside in Suffolk County.

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

Applicable Law and Regulations

For purposes of determining a premium tax credit, the household consists of the taxpayer and the people for whom a taxpayer properly claims a personal exemption deduction on the income tax return (see CFR § 1.36B-1(d)).

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 that is at least 150% but less than 200% of the 2013 FPL, 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)).

The 2013 FPL for a three-person household is \$19,530.00 (78 Fed Reg 5182, 5183 (2013)).

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

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current FPL 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 March 19, 2014).

In determining household size for Medicaid eligibility, a pregnant woman is counted as herself plus the number of children she is expected to deliver (see 26 CFR § 1.36B-1(d), 42 CFR 435.603(b), SPA 13-0055-MM3, as approved March 19, 2014).

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

An individual who is eligible for Medicaid is not eligible for APTC (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(2)).

Legal Analysis

The matter at issue is whether the Marketplace correctly determined that, as of August 7, 2014, your husband qualified for advance premium tax credit (APTC) of up to \$221.00 per month and for cost-sharing reductions but not for Medicaid coverage.

For the purposes of determining eligibility for advance premium tax credit (APTC), the household consists of you, your husband, and your mother. You and your husband expect to file your 2014 federal income tax return jointly and claim one dependent, your mother.

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

The August 8, 2014, eligibility determination was based on an annual household income of \$35,096.00, which was the amount stated on your August 7, 2014 application.

An annual household income of \$35,096.00 equals 179.70% of the 2013 FPL for a three-person household. At 179.70% of the FPL, the expected contribution to the cost of the health insurance premium is 5.37% of income, or \$157.05 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$378.00 per month) minus your

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expected contribution (\$157.05 per month), which equals \$220.95 per month. Therefore, the Marketplace correctly computed your husband's APTC, to the nearest dollar, to be \$221.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the 2013 FPL. Since your household income is 179.70 of the FPL, your husband is eligible for cost-sharing reductions.

Eligibility for Medicaid is determined based on an applicant's current monthly income.

Financial eligibility for Medicaid for people who are not already on Medicaid is based on current monthly household income and family size.

For the purposes of determining eligibility for Medicaid, your husband is in a four-person household, which consists of you plus your child, your husband, and your mother.

Your husband would be financially eligible for Medicaid with a household income no higher than 138% of the 2014 FPL. The 2014 FPL for a four-person household is \$23,850.00, and 138% of that number equals \$32,913.00. Your August 7, 2014 application stated an expected annual household income of \$35,096.00. Since that number is higher than \$32,913.00, the August 8, 2014 eligibility determination correctly stated that your husband was not eligible for Medicaid.

The August 8, 2014 decision did not consider your husband's financial eligibility for Medicaid based on current monthly household income, but you have provided details of your August 2014 income, so that can now be addressed.

Your husband would qualify for Medicaid at an annual income of \$32,913.00, which equals \$2,743.00 per month.

According to your employer's statements of earnings and deductions, you received \$2,841.80 in wages during August 2014: \$710.45 on August 4, \$710.45 on August 11, \$710.45 on August 18, and \$710.45 on August 25. Since these earnings were higher than \$2,743.00, your husband did not qualify for Medicaid on the basis of monthly earnings during August.

Since the determination properly stated that, as of August 7, 2014, your husband was eligible for \$221.00 in advance premium tax credit, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

This decision looks only at the August 8, 2014 notice of determination. It does not affect or change any Marketplace determination made after that date.

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Decision

The August 8, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 10, 2014

How this Decision Affects Eligibility

This decision does not change eligibility for anyone in your family.

As of August 7, 2014, your husband was eligible for \$221.00 in advance premium tax credit, eligible for cost-sharing reductions, and not eligible for Medicaid.

This decision looks only at the August 8, 2014 notice of determination. It does not affect or change any Marketplace determination made after that date.

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:

- Submit 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 this Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the New York Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of this 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.

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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 8, 2014 eligibility determination is AFFIRMED.

This decision does not change eligibility for anyone in your family.

As of August 7, 2014, your husband was eligible for \$221.00 in advance premium tax credit, eligible for cost-sharing reductions, and not eligible for Medicaid.

This decision looks only at the August 8, 2014 notice of determination. It does not affect or change any Marketplace determination made after that date.

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]