



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

Notice of Decision

Decision Date: November 21, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000809

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 11, 2014, you appeared by telephone at a hearing on your appeal of 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 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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[REDACTED]
[REDACTED]
[REDACTED]

Issues

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

Did the Marketplace properly determine that you were eligible for an advance premium tax credit up to \$11.00 per month, but ineligible for cost-sharing reductions as of August 7, 2014?

Did the Marketplace properly determine that you were ineligible for Medicaid as of August 7, 2014?

Procedural History

The Marketplace received your initial application for health insurance on June 30, 2014.

On July 1, 2014, the Marketplace issued a notice requesting additional information on your income.

On July 3, 2014, you reapplied for health insurance through the Marketplace.

On July 4, 2014, the Marketplace issued a notice of eligibility determination stating that based on a household income of \$35,756.81, you are eligible to enroll in a qualified health plan and eligible to receive up to \$11.00 in advance premium tax credit (APTC). It also states that you are ineligible for cost-sharing reductions and Medicaid because you are over the allowable income limit.

On August 7, 2014, you reapplied for health insurance and the Marketplace made a preliminary determination that, with an expected 2014 household income of \$35,756.81, you are eligible to enroll in a qualified health plan and eligible to receive up to \$11.00 in APTC.

On August 7, 2014, you spoke to Marketplace Customer Service Unit and appealed the preliminary determination.

On August 8, 2014, the Marketplace issued a notice of eligibility determination stating that based on a household income of \$35,756.81, you are eligible to enroll in a qualified health plan and eligible to receive up to \$11.00 in advance premium tax credit APTC. It also states that you are ineligible for cost-sharing reductions and Medicaid because you are over the allowable income limit for those programs.

On September 11, 2014, you appeared and provided testimony at a telephone hearing. The record was held open until September 16, 2014 to allow you to submit additional documentation.

On September 12, 2014, you faxed to the NYSOH Appeals Unit a copy of your resignation letter to [REDACTED]. The evidence was made part of the record, and the record was closed. The record is now complete and 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 federal income tax return as single and that you will claim no dependents on that tax return.
2. Your August 7, 2014 Marketplace application states that you have a 2014 expected income of \$35,756.81.
3. You testified that you had two different employers in 2014. You testified that you have a combined earned income of \$35,756.81 from these employers.
4. You testified that you were employed as a [REDACTED] at the [REDACTED] [REDACTED] until May 23, 2014. On September 12, 2014, you submitted your resignation letter to [REDACTED], resigning effective May 23, 2014 (Appellant Exhibit B). You submitted a letter from the [REDACTED] dated June 17, 2014, stating that your health insurance coverage will end on

May 24, 2014 due to employment termination on May 23, 2014 (Appellant Exhibit A).

5. You testified that you worked as a per diem [REDACTED] through [REDACTED] [REDACTED]. until June 20, 2014.
6. You testified that you were unemployed as of June 20, 2014. You testified that you had \$0.00 income in July and August 2014.
7. You testified that you have not applied for unemployment insurance benefits (UIB) because you are now a full-time student and do not believe that you are entitled to them.
8. You applied for health insurance through the Marketplace in July 2014 and August 2014.
9. According to your Marketplace application, you are not currently receiving Medicaid benefits.
10. You reside in Albany 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 federal poverty level (FPL); (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)).

In an analysis of APTC 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).

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

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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 300% but less than 400% of the 2013 FPL, the expected contribution is 9.50% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

Cost-sharing reductions are available to a person who is eligible to enroll in a qualified health plan and:

- 1) is eligible for APTC,
- 2) has a household income less than 250% of the FPL, and
- 3) enrolls in a silver level qualified health plan through the Marketplace

(45 CFR § 155.305(g)).

Medicaid can be provided through the Marketplace to adults who meet all the following criteria: (1) are age 19 or older and under age 65; (2) are not pregnant; (3) are not entitled to or enrolled for Medicare benefits; (4) are not otherwise eligible for and enrolled for mandatory coverage under Medicaid; and (5) have a household modified adjusted gross income that is at or below 138% of the federal poverty level 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).

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

Legal Analysis

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

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

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

The August 8, 2014 eligibility determination was based on an annual household income of \$35,756.81. Annual household income of \$35,756.81 equals 311.12% of the 2013 FPL for a one-person household. At 311.12% of the FPL, the expected contribution to the cost of the health insurance premium is 9.50% of income, or \$283.07 per month.

The maximum amount of APTC 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 (\$283.07 per month), which equals \$11.07 per month. Therefore, the Marketplace correctly determined that your APTC, to the nearest dollar, is \$11.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your expected annual income is 311.12% of the 2013 FPL, you are not eligible for cost-sharing reductions.

When the August 8, 2014 eligibility determination found you ineligible for Medicaid, it did so in reliance on your expected annual household income of \$35,756.81. You would meet the financial requirement for Medicaid at a household income no higher than 138% of the 2014 FPL. Since the 2014 FPL for a one-person household is \$11,670.00, Medicaid could have been authorized at an expected income at or below \$16,104.60. Since your income exceeded this limit, the determination properly found you ineligible for Medicaid on that information.

Since the August 8, 2014 eligibility determination correctly stated that you were eligible for up to \$11.00 of APTC, ineligible for cost-sharing reductions, and ineligible for Medicaid, it was correct when made and is AFFIRMED.

However, the record suggests that the annual household income listed on your August 7, 2014 application no longer accurately reflects your current monthly income. You provided credible evidence that your employment ended on June 20, 2014 and that you have not earned any income since then. You testified that your income has been \$0.00 since June 20, 2014 because you have not applied

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for unemployment insurance benefits (UIB) because you are now a full-time student and do not believe that you are entitled to them.

Also, the August 7, 2014 application indicates that you were not receiving Medicaid benefits when you submitted the application. Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. According to your testimony, your monthly income for July 2014 and August 2014 is \$0.00.

Since your income has changed and your eligibility was not considered on the basis of monthly income, your case is returned to the Marketplace for an eligibility redetermination based on a one-person household with an attested monthly income for July and August of 2014 of \$0.00.

Decision

The August 8, 2014 eligibility determination is AFFIRMED.

Your case is being returned to the Marketplace for redetermination of your eligibility based on a one-person household with an attested monthly income, for July and August of 2014 of \$0.00.

Effective Date of this Decision: November 21, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

It does return your case to the Marketplace for redetermination of your eligibility using the updated information that you provided during the appeal process.

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:

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- 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 8, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

It does return your case to the Marketplace for redetermination of your eligibility using the updated information that you are in a one-person household with an attested monthly income for August and July of 2014 of \$0.00.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]