



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: AP000000000810

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 5, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 9, 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]
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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 eligible for an advance premium tax credit in the amount of \$274.00 as of August 8, 2014?

Did the Marketplace properly determine that you were ineligible for Medicaid as of August 8, 2014?

Procedural History

The Marketplace received your initial application for health insurance on August 6, 2014 and modified applications on August 7, 2014 and August 8, 2014.

On August 8, 2014, the Marketplace made a preliminary determination that, with a household income of \$58,982.50, you were eligible for advance premium tax credit of up to \$274.00 per month. The same day, you spoke to Marketplace Customer Service Unit and appealed that determination.

On August 9, 2014, the Marketplace issued a notice of eligibility redetermination that was consistent with the August 8, 2014 preliminary determination. The notice stated that based on an annual household income of \$58,982.50, you were eligible to enroll in a qualified health plan and entitled to up to \$274.00 per month in advance premium tax credit (APTC). The notice also indicated that you were not eligible for Medicaid or cost-sharing reductions because your household income exceeded the limits for those programs.

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On September 5, 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 closed at the end of the hearing.

Findings of Fact

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

1. You applied for health insurance for yourself and spouse, [REDACTED]
2. You testified that you plan on filing a 2014 federal income tax return.
3. You testified that you plan on filing your tax return with the tax status of married filing jointly and will claim one dependent on your 2014 federal income tax return.
4. You currently live with your spouse and your three-year-old son.
5. You testified that your spouse is currently pregnant.
6. According to your August 8, 2014 application, you expect 2014 tax deductions of \$1,752.00 and a 2014 income of -\$1,752.00, while your spouse expects 2014 income of \$60,734.50 (\$57,494.50 earned and \$3,240.00 in unemployment benefits).
7. You testified that you will begin employment on September 15, 2014 with an annual salary of approximately \$68,000.00. You also testified that you were not certain if you would be able to claim any deductions on your 2014 federal income tax return.
8. According to your August 8, 2014 Marketplace Application and testimony, your spouse earned income of \$57,494.50 between January 1, 2014 and June 20, 2014 from [REDACTED]
9. You testified that your spouse stopped working on June 20, 2014.
10. You testified your spouse applied for unemployment insurance benefits, which were approved for a start date of July 14, 2014 with a weekly benefit rate of \$405.00 (Appellant Exhibit A).

11. You testified that your spouse received \$5,000.00 from [REDACTED] [REDACTED] between August 20, 2014 and August 26, 2014.
12. Your spouse received unemployment benefits in the amount of \$405.00 in July 2014 (Appellant Exhibit A). On September 5, 2014, you testified that your spouse also received unemployment benefits of \$1,417.50 in August 2014 and \$202.50 in September 2014.
13. You testified that your spouse anticipates returning to work, but that you are not certain of her income for the remainder of 2014.
14. You currently reside in Kings County.

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; (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 \$19,530 for a three-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

minus

- 2) the taxpayer’s expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

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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)).

When determining the household size of a pregnant woman for a Medicaid analysis, a pregnant woman is counted as herself plus the number of children she is expected to deliver (42 CFR § 435.603(b)).

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

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 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 \$23,850.00 for a four-person household (79 Fed. Reg. 3593, 3593).

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Legal Analysis

According to the record, you have a three-person tax household. You expect to file your 2014 federal income tax return with the tax status of married filing jointly and claim one dependent.

You reside in Kings County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$741.05 per month.

A three-person household may qualify for APTC if the annual household income is between \$26,952.00 (138% 2013 FPL) and \$78,120.00 (400% 2013 FPL).

The August 9, 2014 eligibility determination was based on a 2014 household income of \$58,982.50, the amount stated on your application.

An annual household income of \$58,982.50 equals 302.01% of the 2013 FPL for a three-person household. At 302.01% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$466.94 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$741.05 per month) minus your expected contribution (\$466.94 per month), which equals \$274.11 per month. Therefore, the Marketplace correctly computed your APTC, to the nearest dollar, to be \$274.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 302.01% of the FPL, you are not eligible for cost-sharing reductions.

The August 9, 2014 determination stated that you did not qualify for Medicaid on the basis of your annual income. Since your spouse was pregnant, your eligibility was determined for a four-person household. In 2014 an adult (19 to 64 years old) in that household would qualify for Medicaid at an income up to \$32,913.00 and a pregnant woman would qualify up to \$53,186.00 (223% of FPL). Since the application indicated a 2014 income of \$58,982.50, Medicaid was properly denied on an annual financial basis.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be based on current monthly income and family size. Since the record has now been developed on your household's income for August 2014, the month of your application, an analysis can be done on this basis.

You are eligible for Medicaid up to an annual income of \$32,913.00, which is \$2,743 per month, and your spouse is eligible up to \$53,186.00 (223% 2014 FPL), which is \$4,433 per month.

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You testified that your spouse stopped working on June 20, 2014 and collected unemployment insurance benefits at a rate of \$405.00 per week between July and September 2014. You also testified that your spouse received \$5,000.00 between August 20, 2014 and August 26, 2014 from [REDACTED]. If your spouse received four unemployment checks during August, this would bring your household income to \$6,620.00 for the month. Since this exceeds the income limit, you were also ineligible for Medicaid on a monthly basis during August 2014.

Since the August 9, 2014 eligibility determination correctly stated that you were eligible for APTC of up to \$274.00 per month but ineligible for cost-sharing reductions and Medicaid it is AFFIRMED.

Decision

The August 9, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 21, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

As of August 8, 2014, you were eligible for APTC of up to \$274.00 per month but ineligible for cost-sharing reductions and Medicaid.

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

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- 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 9, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

As of August 8, 2014, you were eligible for APTC of up to \$274.00 per month but ineligible for cost-sharing reductions and Medicaid.

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]