



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

Notice of Decision

Decision Date: November 24, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000820

[REDACTED]
[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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Issue

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

Did the Marketplace properly determine that [REDACTED] was eligible for \$17.00 per month in advance premium tax credit as of August 8, 2014?

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

Procedural History

The Marketplace received your application for health insurance on August 7, 2014.

On August 8, 2014, the Marketplace issued a determination in your case. It said that you were eligible to enroll in a qualified health plan through the Marketplace. It also said that you were eligible to receive \$17.00 per month in advance premium tax credit (APTC) to help pay for the cost of insurance premiums. You were not determined eligible for Medicaid because your household income of \$35,000.00 was over the allowable income limit of \$16,105.00.

On August 9, 2014, you spoke with the Marketplace’s Customer Service Unit and appealed that determination.

On September 11, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during the

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hearing and left open for 15 days to allow you to submit supporting evidence. The Marketplace's Appeals Unit received your supporting evidence of the Airgas, Inc. Certificate of Group Health Plan Coverage on September 26, 2014 and the record was subsequently closed.

Findings of Fact

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

- 1) You are currently single and living with your fiancée.
- 2) You expect to file your 2014 tax return as Single.
- 3) You do not expect to claim anyone as a dependent.
- 4) You testified and provided evidence that you are currently unemployed. You testified that your last day of employment was July 11, 2014.
- 5) You applied for health insurance through the Marketplace on August 7, 2014. In your Marketplace application, you attested to a household income of \$35,000.00. You testified that this income is not an accurate reflection of your current income as that income was received between January 1, 2014, and the last day of your employment on July 11, 2014.
- 6) You testified that you moved to Albany, New York, on August 1, 2014 for school. You also testified that you began law school on August 13, 2014.
- 7) You testified that you have not had any income from July 11, 2014 to the date of the hearing. You are living off of your savings while attending law school.
- 8) You testified that you are not receiving unemployment benefits because you are enrolled in school.
- 9) You currently 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 2013 federal poverty level; (2) expects to file a tax return

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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)).

The maximum amount of advance premium tax credit 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 2013 federal poverty level, the expected contribution is 9.50% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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

An individual is eligible for enrollment in Medicaid when he meets the nonfinancial criteria and has a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)).

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 435.603(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 by the US Department of Health and Human Services, March 19, 2014).

Once an individual becomes eligible for Medicaid, they are 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 2014 tax return and do not expect to claim anyone as a dependent.

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.

The August 7, 2014 eligibility determination was based on an annual household income of \$35,000.00. An annual household income of \$35,000.00 equals 304.61% of the 2013 federal poverty level for a one-person household. At 304.61% of the federal poverty level, the expected contribution to the cost of the health insurance premium is 9.5% of your income, or \$277.08 per month.

The maximum amount of advance premium tax credit 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 (\$277.08 per month), which equals \$17.06 per month. Therefore, calculated to the nearest dollar, the Marketplace correctly computed your advance premium tax credit to be \$17.00 per month.

However, at the September 11, 2014 hearing, you testified that your 2014 expected annual household income no longer reflects your current income situation and that you would like your financial eligibility to be reconsidered.

You credibly testified that you left your job on July 11, 2014 and began to attend law school on August 13, 2014. You credibly testified that you have not received any income as of July 11, 2014, and are currently living on your savings. You also credibly testified that you are not receiving unemployment benefits since you are enrolled in school. Therefore, your income for the month of August, the month during which you submitted your application, 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 8, 2014

eligibility by expected annual income but not by monthly income, the case should be returned to the Marketplace for an eligibility determination on monthly income.

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

Decision

The August 8, 2014 eligibility determination is AFFIRMED.

The case is returned to the Marketplace for redetermination of the appellant's Medicaid eligibility as of August 7, 2014 for a household of one with a total income of \$0.00 for the month of August 2014.

Effective Date of this Decision: November 24, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, taking into account the additional information you provided during and after your hearing. The Marketplace will issue another notice after it redetermines your eligibility.

Currently, you remain eligible for an advance premium tax credit of up to \$17.00 per month.

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 8, 2014 eligibility determination is AFFIRMED.

The case is returned to the Marketplace for redetermination of the appellant's eligibility as of August 7, 2014 for a household of one with a total income of \$0.00 for the month of August 2014.

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your eligibility, taking into account the additional information you provided during and after your hearing.

Currently, you remain eligible for an advance premium tax credit of up to \$17.00 per month.

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]
[REDACTED]