



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

Notice of Decision

Decision Date: November 25, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000826

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 1, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 13, 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 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]
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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 to receive up to \$168.00 monthly of advance premium tax credit as of August 12, 2014?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions as of August 12, 2014?

Did the Marketplace properly determine that you were ineligible for Medicaid as of August 12, 2014?

Procedural History

The Marketplace received your initial application for health insurance on July 31, 2014.

On August 1, 2014, the Marketplace issued an eligibility determination notice stating that you may be eligible for health insurance through New York State of Health but more information is needed to make a determination.

On August 6, 2014, you reapplied for health insurance through the Marketplace multiple times.

On August 7, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible to enroll in a qualified health plan (QHP) and eligible to receive up to \$101.00 monthly of advanced premium tax credits (APTC). It

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also states that you are ineligible for Medicaid because your income is over the allowable limit.

On August 12, 2014, you uploaded a letter of termination from your former employer and spoke with Marketplace's Customer Service. Your eligibility was redetermined on an annual household income of \$35,005.40 and the Marketplace made a preliminary determination that you were entitled to up to \$168.00 per month of APTC and eligible for cost-sharing reductions. You spoke with the Marketplace Customer Service Unit and appealed this preliminary determination.

On August 13, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible to enroll in a QHP, eligible to receive up to \$168.00 monthly of APTC, and eligible for cost-sharing reductions. It also states that you are ineligible for Medicaid because your income is over the allowable limit.

On October 1, 2014, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was held open until October 3, 2014 to allow you to submit additional documentation.

On October 2, 2014, you submitted your record of Benefit Payment History of Unemployment Insurance Benefits (UIB) from the New York State Department of Labor and last Earnings Statement from [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 are applying for health insurance through the Marketplace for yourself only.
2. You testified that you plan on filing a 2014 federal income tax return with the tax status of Single and will claim one dependent on your 2014 federal income tax return.
3. According to your August 12, 2014 Marketplace application, your 2014 expected annual household income is \$35,005.40. Your expected yearly income was based on \$35,005.40 of earned income.
4. According to your August 12, 2014 Marketplace application, your dependent, [REDACTED], has an expected 2014 yearly income of \$0.00.

5. You testified that you had one job, [REDACTED] from January 1, 2014 through July 20, 2014.
6. You submitted a letter on [REDACTED] letterhead in which the company's Chief of Staff states that your employment with [REDACTED] has been terminated effective July 20, 2014 (Appellant Exhibit A).
7. On September 26, 2014, you submitted your last earnings statement from [REDACTED] for the pay period July 13, 2014 through July 26, 2014. It indicates current gross earnings of \$2,030.22 and year-to-date gross earnings of \$35,699.62 as of the pay date of August 1, 2014 (Exhibit B).
8. You submitted an October 1, 2014 Unemployment Benefit Payment History showing that you received a weekly benefit amount of \$405.00 for the weeks of August 3, August 10, August 17, August 24, August 31, September 7, September 14, September 21, and September 28 (Appellant Exhibit B).
9. You currently reside in Suffolk County, NY.

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 \$15,510.00 for a two-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 200% but less than 250% of the 2013 FPL, the expected contribution is between 6.30% and 8.05% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

Cost-sharing reductions (CSR) are available only 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 percent of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

An individual is eligible for enrollment in Medicaid when he or she 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 in 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 must be 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 Department of Health and Human Services, 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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

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A person 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

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

You reside 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 13, 2014 eligibility determination was based on an annual household income of \$35,005.40. According to your August 12, 2014 Marketplace application, your 2014 expected annual household income is \$35,005.40. Your expected yearly income was based on \$35,005.40 of earned income and it indicated that your dependent has an expected 2014 yearly income of \$0.00.

Annual household income of \$35,005.40 equals 225.70% of the 2013 FPL for a two-person household. At 225.70% of the FPL, the expected contribution to the cost of the health insurance premium is 7.20% of income, or \$210.03 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$378.00 per month) minus your expected contribution (\$210.03 per month), which equals \$167.97 per month. Therefore, the Marketplace correctly computed your APTC to be \$168.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 225.70% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found eligible for cost sharing reductions.

Therefore, based on the income information in your August 12, 2014 Marketplace application, the Marketplace's APTC and CSR determinations were correct.

For a household of two in 2014, the maximum allowable income to be eligible for Medicaid is \$21,708.00 (138% 2014 FPL), which is \$1,809.00 per month.

You testified that you had one job, [REDACTED] from January 1, 2014 through July 20, 2014 and submitted a termination letter stating that your employment with [REDACTED] had been terminated effective July 20, 2014 (Appellant Exhibit A).

On September 26, 2014, you submitted your last earnings statement from [REDACTED] for the pay period July 13, 2014 through July 26, 2014. It indicates gross earnings of \$2,030.22 and year-to-date gross earnings of \$35,699.62 as of the pay date of August 1, 2014 (Exhibit B).

You submitted an Unemployment Benefit Payment History showing that you received a weekly benefit amount of \$405.00 for the weeks of August 3, August 10, August 17, August 24, August 31, September 7, September 14, September 21, and September 28 (Appellant Exhibit B).

Based on the documents submitted, you received your final direct deposit from [REDACTED] on August 1, 2014 in the amount of \$2,030.22 and you received five UIB payments of \$405.00 in August 2014. Therefore, your monthly income for August 2014 was \$4,055.22. Since your August income is greater than the maximum allowable monthly income of \$1,809.00, it is not within the allowable income limit for your Medicaid eligibility group and you did not qualify for Medicaid that month.

Since the Marketplace properly determined that as of August 12, 2014, you were eligible for up to \$168.00 per month of APTC, eligible for cost-sharing reductions, and not eligible for Medicaid, the August 13, 2014 notice of eligibility determination is correct and is AFFIRMED.

However, the evidence of record indicates that your income changed after August. According to your Unemployment Benefit Payment History of from the New York State Department of Labor, you received four benefit payments of \$405.00, for a total of \$1,620.00 during the month. The record does not indicate that you received any additional income during September 2014. This additional evidence warrants making a new eligibility determination that would be more consistent with your current income situation. The matter is therefore returned to the Marketplace for a new determination of Medicaid eligibility based on a two-person household with a September 2014 monthly income of \$1,620.00.

Decision

The August 13, 2014 eligibility determination is AFFIRMED.

The case is returned to the Marketplace to determine Medicaid eligibility determination, on a monthly income basis, for a two-person household with a September 2014 income of \$1,620.00.

Effective Date of this Decision: November 25, 2014

How this Decision Affects Your Eligibility

You remain eligible to receive up to \$168.00 monthly of APTC.

You remain eligible to receive CSR.

The case is returned to the Marketplace to determine Medicaid eligibility determination, on a monthly income basis, for a two-person household with a September 2014 income of \$1,620.00.

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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- By fax: 1-855-900-5557

Summary

The August 13, 2014 eligibility determination is AFFIRMED.

You remain eligible to receive up to \$168.00 monthly of APTC.

You remain eligible to receive CSR.

The case is returned to the Marketplace to determine Medicaid eligibility determination, on a monthly income basis, for a two-person household with a September 2014 income of \$1,620.00.

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]