



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: AP000000000829

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 3, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 14, 2014 and August 16, 2014 eligibility determinations.

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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000829

[REDACTED]
[REDACTED]
[REDACTED]

Issue

The issue presented for review by the Appeals Unit of the NY State of Health is:

Did the Marketplace properly determine that you are not eligible for financial assistance through the Marketplace as of August 14, 2014?

Procedural History

The Marketplace received your application for health insurance on August 13, 2014, and made a preliminary determination that you were not eligible for financial assistance.

On August 13, 2014, you spoke with the Marketplace's Customer Service unit and appealed that preliminary determination. During the conversation, you also stated that you believe you should be eligible for Medicaid.

On August 14, 2014, and August 16, 2014, eligibility determination notices were issued on your August 13, 2014 application. Those notices were consistent with the preliminary determination that was prepared on August 13, 2014. The notices stated that you were eligible to enroll in a qualified health plan, but that you were ineligible to receive advance premium tax credits (APTC) to help pay for the cost of your insurance because you said you would not be filing a tax return. You were also ineligible for cost-sharing reductions (CSR) because you were ineligible to receive APTC. The notices did not address your eligibility for Medicaid.

On October 3, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. A Hindi interpreter [REDACTED] helped by translating between Hindi and English. During the hearing, you confirmed that you wanted to

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appoint your son, [REDACTED], as an authorized representative to help clarify testimony that you had given earlier during the hearing. Your son was sworn in and verified the testimony you had given. The record was developed during the hearing and is now closed.

Findings of Fact

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

- 1) You testified that you are not a United States Citizen but that you are a permanent resident.
- 2) Your application states that you will not be filing a tax return for the 2014 tax year and that your son will claim you as a dependent on his tax return. You confirmed this through sworn testimony at the hearing.
- 3) You testified that you are 75 years old and that your birthday is April 29, 1939.
- 4) You testified that you are not a parent caretaker, that you do not have dependent children, and that you are neither blind nor disabled.
- 5) You testified that your expected annual income for 2014 is \$0.00.
- 6) You testified that you are not eligible for Medicare. The record contains an August 22, 2014 document entitled Social Security Administration Retirement, Survivors and Disability Insurance Notice of Disapproved Claim.
- 7) You testified that you would like to be found eligible for Medicaid.
- 8) You testified that in the past you had been found eligible for Medicaid through your Local Department of Social Services but that your coverage had been terminated because you were no longer in the country.
- 9) You testified that you have not attempted to reapply for Medicaid through your Local Department of Social Services because it terminated your coverage.

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

Applicable Law and Regulations

Advance Premium Tax Credit

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 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)).

Cost-Sharing Reductions

Cost-Sharing Reductions are available only to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (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)).

Medicaid

There are two primary places to apply for Medicaid in New York State, the New York State of Health Marketplace and your Local Department of Social Services (LDSS). Generally, adults aged 19 to 64 apply for Medicaid through the Marketplace and adults over the age of 65 who are not parents or caretaker relatives apply for Medicaid through their Local Department of Social Services.

An individual is eligible for enrollment in Medicaid through the Marketplace (called MAGI-Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

The first step in identifying whether an applicant is eligible for MAGI-Medicaid through the Marketplace is determining if he or she meets certain nonfinancial criteria. In general, to qualify for MAGI-Medicaid through the Marketplace you must be:

- An adult aged 19-64, not eligible for Medicare;
- A pregnant woman or infant;
- A child aged 1-18; or
- A parent or caretaker relative.

If you fall into one of these categories, then the Marketplace would determine your eligibility for Medicaid using Modified Adjusted Gross Income (MAGI) rules (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If you do not fall into one of these categories, you may be eligible for non-MAGI Medicaid coverage (N.Y. Soc. Serv. Law § 366(1)(c)).

Legal Analysis

The first issue is whether you were properly found ineligible for an advance premium tax credit (APTC) as of August 14, 2014.

To be eligible for an APTC a person must attest to planning on filing a 2014 tax return. Your original Marketplace application states that you do not plan on filing a tax return for the 2014 tax year. You also testified at the hearing that you will not be filing a tax return. Therefore, the Marketplace properly determined that you were not eligible for APTC.

The second issue is whether you were properly found not eligible for cost-sharing reductions (CSR) as of August 14, 2014.

To be eligible for CSR a person must be found eligible for APTC. You were found not eligible for APTC. Therefore, the Marketplace properly determined that you were not eligible for CSR.

The final issue is whether you should have been found eligible for Medicaid through the Marketplace.

According to the information on your Marketplace application and in your testimony, you are over age 65 years old, and you are not a parent or caretaker relative of a dependent child. Therefore, you do not meet the nonfinancial requirements in the law to be eligible for MAGI-Medicaid through the Marketplace.

The Marketplace does not have the authority to decide if you qualify for non-MAGI Medicaid. Since you may be eligible for Medicaid on a non-MAGI basis, the Marketplace will refer your case to your local district office or, if you are in New York City, the New York City Human Resources Administration for consideration.

You also may apply directly to the New York City Human Resources Administration, Department of Social Services. Additional information on Medicaid is available at the city's website (www.nyc.gov) under NYC Resources – Health.

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Decision

The August 14, 2014 and the August 16, 2014 eligibility determinations are AFFIRMED.

Effective Date of this Decision: November 25, 2014

How this Decision Affects Your Eligibility

You remain eligible to enroll in a qualified health plan.

You are not eligible for advance premium tax credits or cost-sharing reductions.

You do not qualify for MAGI-based Medicaid through the New York State of Health Marketplace.

You may qualify for Medicaid on a non-MAGI financial basis. Your case will be referred to local district office or the New York City Human Resources Administration, as appropriate, for consideration.

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

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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 14, 2014 and the August 16, 2014 eligibility determinations are **AFFIRMED**.

You remain eligible to enroll in a qualified health plan.

You are not eligible for advance premium tax credits or cost-sharing reductions.

You do not qualify for MAGI-based Medicaid through the New York State of Health Marketplace.

You may qualify for Medicaid on a non-MAGI financial basis. Your case will be referred to local district office or the New York City Human Resources Administration, as appropriate, for consideration.

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]