



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

Notice of Decision

Decision Date: December 3, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000832

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 10, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's eligibility determination dated August 15, 2014.

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 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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Decision

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[REDACTED]
[REDACTED]
[REDACTED]

Issues

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

Did the Marketplace properly determine that you and your daughter [REDACTED] were eligible to receive up to \$154.00 monthly of advance premium tax credits as of August 14, 2014?

Did the Marketplace properly determine that you and your daughter [REDACTED] were not eligible to receive Medicaid as of August 14, 2014?

Procedural History

The Marketplace received your application on August 14, 2014.

On August 14, 2014, the Marketplace made a preliminary determination that you and your daughter [REDACTED], with an attested 2014 income of \$51,509.00, were eligible to receive up to \$154.00 monthly of advance premium tax credit (ATPC).

On August 14, 2014, you spoke with a representative in the Marketplace's Customer Service Unit and appealed that determination.

On August 15, 2014, the Marketplace issued a written eligibility determination that you and [REDACTED] were eligible for up to \$154.00 per month of APTC but not eligible for cost-sharing reductions or Medicaid coverage.

The Marketplace sent you a Notice of Telephone Hearing on August 21, 2014 for a scheduled telephone hearing on September 10, 2014.

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On September 10, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to September 25, 2014, or until you faxed documents to the Appeals Unit, to allow you the opportunity to submit additional income information.

On September 16, 2014, the Marketplace's Appeals Unit received by fax the following documents: 1) A cover fax letter; 2) An executed Agreement and General Release from your employment; and 3) A copy of the NY Department of Labor's Unemployment Insurance Monetary Benefit Determination. These documents were marked as "Appellant's Exhibits A, B, and C," respectively, and have been made part of the record. Since no other documents are needed or expected, the record was closed on September 16, 2014.

Findings of Fact

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

- 1) You are a single mother with one dependent 22-year-old daughter, [REDACTED] (Testimony of 9/10/14; Marketplace Application).
- 2) You plan on filing your 2014 taxes using the tax filing status of Head of Household with a Qualifying Individual (Testimony of 9/10/14; Marketplace Application).
- 3) Both you and [REDACTED] want health insurance coverage (Testimony of 9/10/14; Marketplace Application).
- 4) According to your Marketplace application and your testimony, your 24-year-old daughter, [REDACTED], lives with you, reports having \$0.00 income, and plans on filing her own 2014 tax return using the tax filing status of single (Testimony of 9/10/14; Marketplace Application).
- 5) The Marketplace determined that [REDACTED] is Medicaid eligible as of August 15, 2014. [REDACTED] has not appealed this eligibility determination.
- 6) You and your daughters live (reside) in Dutchess County, New York.
- 7) You entered into a separation agreement with your previous employer, and your last day of work was August 6, 2014. Your severance pay was a lump sum payment of \$10,000.00, which after taxes was \$6,260.00, which you received during August 2014 (Testimony of 9/10/14; Appellant's Exhibit B).
- 8) You became eligible to collect Unemployment Insurance Benefits of \$405.00 per week. You were paid \$202.50 on August 24, 2014, for two days; \$405.00 on August 31, 2014 for four days; and \$405.00 on September 7, 2014 for four days.

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You had no other income during that period (Testimony of 9/10/14; Appellant's Exhibit C).

- 9) On your August 14, 2014 Marketplace application you attested to an expected 2014 income of \$51,509.00 for yourself and an expected income of \$800.00 for [REDACTED]
- 10) According to your application, your expected 2014 income consists of \$46,649.00 in earned income and \$4,860.00 in unemployment insurance benefits (Testimony of 9/10/14; Marketplace Application; Appellant's Exhibit C).
- 11) An August 12, 2014 Monetary Benefit Determination from the Department of Labor states that your unemployment insurance weekly benefit rate is \$405.00 and that you can receive up to 26 times that benefit rate during your claim benefit year, which runs from August 11, 2014 to August 16, 2015.
- 12) Since your first payment was received on or about August 24, 2014, you are eligible for unemployment benefits at a maximum weekly benefit rate of \$405.00 for the remainder of 2014 (Appellant's Exhibit C).
- 13) [REDACTED] earned \$800.00 in the beginning of 2014, but has not worked since then and has no other sources of income (Testimony of 9/10/14).

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

Applicable Law and Regulations

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).

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 household income (26 USC § 36B(b)(3)(A)).

For household income in the range of at least 300% but less than 400% of the federal poverty level (FPL), the expected contribution is 9.5% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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).

Cost sharing reductions (CSR) are available to a person who is eligible to enroll in a qualified health plan (QHP) and:

- 1) is eligible for an advanced premium tax credit (APTC),
- 2) has a household income less than 250% of the FPL, and
- 3) enrolls in a silver level QHP 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 \$15,730.00 for a two-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 by the US Department of Health and Human Services, March 19, 2014).

Legal Analysis

The matters at issue are whether, when you filed your August 14, 2014 application for insurance coverage with financial support, you and ██████████ were eligible for advance premium tax credit (APTC) of up to \$154.00 per month but ineligible for cost-sharing reductions and Medicaid.

According to the record, your tax household consists of you and your daughter, ██████████, whom you claim as a dependent. You expect to file as Head of Household

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with a Qualifying Individual on your tax return for 2014. Therefore, you are in a household of two people.

You reside in Dutchess County, where the second lowest cost silver plan available through the Marketplace for a primary subscriber plus one dependent costs \$561.70 per month.

The August 14, 2014 eligibility determination was based on an expected income of \$51,509.00, which is 332.1% of the 2013 FPL for a two-person household. At 332.1% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$407.78 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$561.70 per month) minus your expected contribution (\$407.78 per month), which equals \$153.92 per month of advance premium tax credits. Therefore the Marketplace correctly computed your APTC, rounded to the nearest dollar, to be \$154.00 per month based on your expected annual income.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since \$51,509.00 is 332.1% of the FPL, the Marketplace properly found you not eligible for cost-sharing reductions at that income level.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$15,730.00 for a two-person household. Since \$51,509.00 is 327.46% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid coverage based on the information provided.

Since the August 15, 2014 determination properly stated that, based on the information you provided, you were eligible for up to \$154.00 per month of APTC but not eligible for cost-sharing reductions or Medicaid coverage, it is correct and is AFFIRMED.

However, at the hearing you credibly testified that your 2014 expected household income listed on your application no longer accurately reflects your current monthly income and that you would like your eligibility for Medicaid to be reconsidered.

Neither you nor your daughter [REDACTED] currently receives Medicaid, so your eligibility may be reconsidered on the basis of monthly income. Under the separation agreement with your former employer you received a lump-sum severance payment during August 2014, and this payment exceeded the limit for Medicaid financial eligibility.

The credible evidence indicates that your household income for September 2014 and later consists solely of unemployment insurance benefits of \$405.00 per week.

Since evidence of your current income is now available in the record, your case will be returned to the Marketplace for redetermination of your eligibility for financial assistance based on a household of two people with a September 2014 income of \$1,620.00.

Decision

The August 15, 2014 notice of eligibility determination is AFFIRMED.

Your case is returned to the Marketplace for a redetermination of your and [REDACTED] eligibility for financial assistance based on a September 2014 of \$1,620.00 and a household of two people.

Effective Date of this Decision: December 3, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain eligible for \$154.00 per month in advance premium tax credit and remain eligible for cost-sharing reductions.

However, your case is returned to the Marketplace for a redetermination of your and [REDACTED] eligibility for financial assistance based on a September 2014 income of \$1,620.00 and a household of two people.

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.

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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 15, 2014 notice of eligibility determination is AFFIRMED.

This decision does not change your eligibility. You remain eligible for \$154.00 per month in advance premium tax credit and remain eligible for cost-sharing reductions.

However, your case is returned to the Marketplace for a redetermination of your and [REDACTED] eligibility for financial assistance based on a September 2014 income of \$1,620.00 and a household of two people.

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]