



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

Notice of Decision

Decision Date: November 28, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000834

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 19, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 15, 2014 notice of 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).

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Decision

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Appeal Identification Number: AP000000000834

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that [REDACTED] were eligible for up to \$155.00 per month in advance premium tax credit, eligible for cost-sharing reductions, and ineligible for Medicaid?

Procedural History

The Marketplace received your initial application for health insurance for yourself and your son, [REDACTED], on August 5, 2014.

The Marketplace received your modified applications on August 12, 2014 and August 14, 2014.

On August 14, 2014, the Marketplace made a preliminary determination that you were eligible for up to \$155.00 per month in advance premium tax credit and eligible for cost-sharing reductions and that your son was not eligible for financial assistance.

On August 14, 2014, you spoke with the Marketplace’s Customer Service Unit and appealed that preliminary determination.

On August 15, 2014, the Marketplace issued two notices of eligibility determination. According to the later notice, with an expected household income of \$35,000.00 you and your son were eligible for an advance premium tax credit

(APTC) of \$155.00 per month and eligible for cost-sharing reductions but not eligible for Medicaid.

On September 19, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you to submit supporting evidence. The Marketplace's Appeals Unit received the supporting evidence of your Certificate of Group Health Plan Coverage on September 19, 2014, and the record was closed.

On September 23, 2014 the Marketplace issued a notice of eligibility redetermination that, with a household income of \$10,530.00 you and your son are Medicaid eligible.

Findings of Fact

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

- 1) You testified that you live with your son, [REDACTED]. Your application indicates that your son is nine years old.
- 2) You testified that expect to file your 2014 tax return as single and to claim your son as a dependent. You do not expect anyone to claim you as a dependent.
- 3) An August 6, 2014 letter from your former employer, on company letterhead, states that you separated from employment on June 30, 2014 and that, as part of the separation arrangements, the company continued to provide health insurance benefits until July 31, 2014.
- 4) A July 16, 2014 Certificate of Group Health Plan Coverage from UnitedHealthcare Oxford confirms that the health coverage provided through your employer for yourself and your son ended on July 31, 2014.
- 5) You testified that, as of the date of the hearing, your son had no health insurance coverage.
- 6) You first applied for health insurance through the Marketplace on August 5, 2014.
- 7) You testified and provided evidence that after your employment ended you were approved for unemployment insurance benefits.

- 8) According to the New York State Department of Labor Official Record of Benefit Payment History, your benefits became effective July 21, 2014 and are \$405.00 per week.
- 9) You testified that you received your first unemployment benefit payment in August 2014. You only received two benefit payments between August 2014 and the date of the hearing. You testified that you had received two unemployment payments in August but your benefits were then discontinued until you completed your interview. You testified that your unemployment benefits were recently reinstated and you received your third payment on September 19, 2014, the date of your hearing. Each payment was in the amount of \$405.00 gross.
- 9) You testified that the income submitted in your August 14, 2014 Marketplace application of \$35,000.00 was not an accurate reflection of your current income. You further testified that you earned the entire \$35,000.00 between January 1, 2014 and your last day of employment on June 30, 2014.
- 10) You testified that you received your last paycheck from your former employer on July 1, 2014.
- 11) You testified that you have no other sources of income.
- 12) You currently reside in New York County, New York.

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

Applicable Law and Regulations

A tax filer is eligible for an advance premium tax credit if (1) the tax filer is expected to have a household income of at least 100% but not more than 400% of the Federal Poverty Level (FPL), and (2) the tax filer expects to claim a personal exemption deduction on his or her tax return for an applicant who meets the eligibility requirements to enroll in a qualified health plan and is not eligible for minimum essential coverage except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR § 1.36B-2).

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

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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 in the range of at least 200% but less than 250% of the 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)).

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 are available to a person who (1) is eligible to enroll in a qualified health plan 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% of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level qualified health plan (45 CFR § 155.305(g)(1)).

An individual is eligible for enrollment in Medicaid when 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 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)).

Medicaid is currently available to children who are at least one year of age but under the age of nineteen who have a modified adjusted gross income at or below 154% of the FPL of the applicable family size (see 42 CFR § 435.118(c); NY Department of Health Administrative Directive 13ADM-03).

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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).

An individual 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

You have appealed the eligibility determination issued on August 15, 2014. On September 23, 2014, the Marketplace issued a redetermination, based on updated information, that both you and your son were eligible for Medicaid coverage effective September 1, 2014. Since the September notice of eligibility redetermination has not been appealed, it continues in effect; and this decision is limited to your eligibility during the month of August 2014.

According to the record, you expect to file as single on your tax return for 2014 and expect to claim your son as your only dependent. Therefore, you are in a household of two people.

A two-person household may qualify for an advance premium tax credit if the annual household income is between \$21,404.00 (138% of the Federal Poverty Level) and \$62,040.00 (400% of the Federal Poverty Level).

You reside in New York County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$365.28 per month.

The August 14, 2014 eligibility determination was based on an annual household income of \$35,000.00, the amount of expected income stated on your application. An annual household income of \$35,000.00 equals 225.66% of the 2013 Federal Poverty Level (FPL) for a two-person household. At 225.66% of the FPL, the expected contribution to the cost of the health insurance premium is 7.20% of income, or \$209.94 per month.

The maximum amount of advance premium tax credit that can be approved equals the cost of the second lowest cost silver plan in your county (\$365.28 per month) minus your expected contribution (\$209.94 per month), which equals

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\$155.34 per month. Therefore, the Marketplace correctly computed your advance premium tax credit, to the nearest dollar, to be \$155.00 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 225.66% of the FPL for purposes for the advance premium tax credit and cost-sharing reductions, you were correctly found eligible for cost sharing reductions.

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. Children between one year of age and nineteen years of age may qualify for Medicaid if the household's adjusted gross income is at or below 154% of the FPL of the applicable family size.

When you submitted your August 2014 application, the relevant FPL was \$15,730.00 for a one-person household. By that standard, \$35,000.00 is 222.5% of the FPL. Therefore the Marketplace properly found you to be ineligible for Medicaid coverage on the information provided in your application.

Since the Marketplace, relying on the information in your August 14, 2014 application, properly found that you and your son were eligible for up to \$155.00 per month in advance premium tax credit, eligible for cost-sharing reductions, and ineligible for Medicaid, the August 15, 2014 determination is correct and is **AFFIRMED**.

However, at the hearing you credibly testified that your 2014 expected annual household income no longer accurately reflects your current monthly income. You testified and provided evidence that your employment was terminated on June 30, 2014. You applied for unemployment benefits and they became effective July 21, 2014. The credible evidence of record supports a finding that the only income you received during August 2014 consisted of two unemployment benefit payments of \$405.00 each. Therefore, your income for the month of August 2014 was \$810.00.

Under these circumstances, it is appropriate for the Marketplace to redetermine of your eligibility taking into account your change in income.

Therefore, your case is being returned to the Marketplace for redetermination of your eligibility for insurance affordability programs for you and your son for the month of August 2014 based on a household of two people, who are both uninsured by a third party health plan, with an August 2014 household income of \$810.00.

Decision

The August 15, 2014 eligibility determination is AFFIRMED.

Your case is being returned to the Marketplace for a redetermination of your eligibility, solely for the month of August 2014, based on a two-person household with an August 2014 income of \$810.00.

Effective Date of this Decision: November 28, 2014

How this Decision Affects Your Eligibility

You and your son became eligible for Medicaid coverage as of September 1, 2014, and that coverage continues.

The Marketplace will redetermine your eligibility only for the month of August 2014.

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.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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- By mail at:
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- By fax: 1-855-900-5557

Summary

The August 15, 2014 eligibility determination is AFFIRMED.

You and your son became eligible for Medicaid coverage as of September 1, 2014, and that coverage continues.

The Marketplace will redetermine your eligibility only for the month of August 2014. This will be based on a two-person household with an August 2014 income of \$810.00.

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]