



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

Notice of Decision

Decision Date: December 2, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000836

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 9, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace August 15, 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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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 \$54.00 monthly of advance premium tax credits as of August 14, 2014?

Did the Marketplace properly determine that you are not eligible for cost-sharing reductions or Medicaid as of August 14, 2014?

Procedural History

You initially filed your Marketplace application on December 19, 2013. You resubmitted it on August 14, 2014 and, on that application, attested to an expected yearly income of \$40,000.00.

On August 14, 2014, the Marketplace made a preliminary determination that, with an expected yearly income of \$40,000.00, you qualified for an advance premium tax credit of up to \$54.00 per month.

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

On August 15, 2014, the Marketplace issued a written eligibility determination that, with an expected income of \$40,000.00 you qualified for an advance premium tax credit of up to \$54.00 per month but did not qualify for cost-sharing reductions or Medicaid. It also stated that you were granted a special enrollment period through October 13, 2014.

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On September 9, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was held open for fifteen days to allow you to produce income documents and other evidentiary proof. As of September 25, 2014 at 9:00 a.m., the Appeals Unit had not received any documents from you. Accordingly, the record was closed at that time.

Findings of Fact

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

- 1.) You testified that you are single, have no dependents, and plan on filing your 2014 taxes with a tax filing status of single.
- 2.) According to your Marketplace application, you reside in Kings County, New York.
- 3.) You testified that you voluntarily stopped working on August 13, 2014, because you decided to change career paths and were entering a 12-week training program.
- 4.) You testified that you were enrolled in Health Republic Insurance of New York through the Marketplace from February 2014 through August 2014, and needed to change health insurance beginning September 1, 2014.
- 5.) You testified that, the day after you left your job, you went into your Marketplace account to report you had stopped working and to change health coverage. You signed up for a catastrophic plan through the Marketplace to begin on September 1, 2014 and paid your September 2014 premium.
- 6.) You testified that you did not apply for unemployment insurance benefits.
- 7.) You testified that you earned \$27,500.00 from January 1, 2014 to June 9, 2014 and \$12,500.00 from June 10, 2014 to August 13, 2014.
- 8.) You testified that you will have no income from September 1, 2014 until at least December 15, 2014, because you will be a full-time student.

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 (APTC) 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)).

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

For annual household income in the range of at least 250% but less than 300% of the 2013 FPL, the expected contribution is between 8.05% and 9.50% 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 \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

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)).

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 \$11,670.00 for a one-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

According to the record, you are the only member of your tax household. You expect to file as single on your tax return for 2014 and to claim no dependents.

You reside in Kings County, where the lowest cost silver plan that is available through the Marketplace for an individual costs \$370.52 per month.

According to your Marketplace application and your testimony at hearing, you earned \$40,000.00 before you separated from employment and do not expect to receive any unemployment benefits or have any other sources of income from August 14, 2014 to at least December 15, 2014. This supports the finding you're expected 2014 income is \$40,000.00, which is the household income used for the August 15, 2014 determination.

The annual household income of \$40,000.00 equals 348.13% of the 2013 federal poverty level (FPL) for a one-person household. At 348.13% of the FPL, the expected contribution to the cost of the health insurance premium is 9.50% of income, or \$53.85 per month.

The maximum amount of advance premium tax credit (APTC) that can be authorized equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$370.52) minus your expected contribution (\$ 316.67 per month), which equals \$53.85 per month. Therefore, the Marketplace correctly computed your APTC, rounded to the nearest dollar, to be \$54.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$40,000.00 is 348.13% of the 2013 FPL, the Marketplace correctly found you to be ineligible 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

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modified adjusted gross income that is at or below 138.0% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,670.00 for a one-person household. Since \$40,000.00 is 342.76% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid coverage on the information provided.

Since the August 15, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$54.00 per month but not eligible for cost-sharing reductions or Medicaid, it is correct and is **AFFIRMED**.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation. You credibly testified that you have no income for the months of September, October, and November 2014.

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 determined your eligibility by expected annual income but not by current monthly income, the case should be returned to the Marketplace for a redetermination of eligibility using an income of \$0.00 for the month of September 2014.

Decision

The August 15, 2014 eligibility determination is **AFFIRMED**.

Your case is returned to the Marketplace for redetermination of your eligibility for financial assistance based on a one-person household with a September 2014 income of \$0.00.

Effective Date of this Decision: December 2, 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 \$54.00 per month.

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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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 15, 2014 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your eligibility, taking into account the additional information you

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provided during the appeal process. The Marketplace will issue another notice after it redetermines your eligibility.

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]