



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: AP000000000837

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 18, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 12, 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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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000837

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Issues

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

Did the Marketplace properly determine that [REDACTED] [REDACTED] were eligible for an advance premium tax credit (APTC) in the amount of \$593.00 and cost-sharing reductions as of August 12, 2014?

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

Did the Marketplace properly determine [REDACTED] eligible for Child Health Plus with a monthly premium of \$9.00 as of August 12, 2014?

Procedural History

On August 11, 2014, you applied for health insurance through the Marketplace for yourself, your spouse, and your son.

On August 12, 2014, the Marketplace issued two eligibility determination notices. The first notice stated that you and your spouse, [REDACTED], are eligible to enroll in a qualified health plan (QHP), eligible to share up to \$593.00 monthly of advanced premium tax credit (APTC), and eligible cost-sharing reductions (CSR). It also stated that you were ineligible for Medicaid because your income exceeded the allowable income limit. The second notice stated that your son, [REDACTED], is ineligible for Medicaid but eligible to enroll in Child Health Plus with a total monthly premium of \$9.00.

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On August 14, 2014, you called the Marketplace's Customer Service Unit and appealed those determinations.

On September 18, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) a separation/termination letter from your former employer, [REDACTED]; and (2) your final earnings statement from [REDACTED]. The record remained open until October 2, 2014, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by October 2, 2014.

Accordingly, the record was closed on October 2, 2014.

Findings of Fact

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

1. You are applying for health insurance for yourself, your spouse, and your son.
2. You testified that you plan on filing a 2014 federal income tax return.
3. You testified that you plan on filing your tax return with the tax status of married filing jointly and will claim one dependent on your 2014 federal income tax return.
4. You currently live with your spouse and your two-year-old son.
5. According to your August 11, 2014 Marketplace Application, your 2014 annual household income is \$34,271.60. Your expected yearly income was based on earned income of \$34,271.60.
6. According to your August 11, 2014 Marketplace Application and testimony, your spouse's expected 2014 income is \$0.00.
7. You testified that you stopped working at [REDACTED] on July 11, 2014 to pursue a career in real estate.
8. You testified that you did not apply for unemployment insurance benefits.
9. You testified that you do not expect to make any income for the remainder of 2014.

10. You currently reside in Queens County.

11. At the September 18, 2014 hearing you were directed to submit a separation/termination letter from your former employer, [REDACTED]. You were also directed to submit your final earnings statement from [REDACTED]. No additional evidence was received before the record was closed.

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 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)).

For the purposes of determining eligibility for APTC, the 2013 FPL for a three-person household is \$19,530.00 (78 Fed Reg 5182, 5813 (2013)).

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 that is at least 150% but less than 200% of the 2013 FPL, the expected contribution is between 4.00% and 6.30% 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 \$19,530.00 for a three - person household (78 Fed. Reg. 5182, 5183).

Cost-sharing reductions (CSR) are available 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% 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)).

Additionally, 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 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).

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 \$19,790.00 for a three-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 Department of Health and Human Services, March 19, 2014).

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a

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household income at or below 400% of the federal poverty level (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in Child Health Plus depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the federal poverty level. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month. (PHL § 2510(9)(d)).

The Child Health Plus premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the current FPL (PHL § 2510(9)(d)(ii)).

Legal Analysis

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

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$741.05 per month.

The August 12, 2014 eligibility determinations were based on an annual household income of \$34,271.60, which was the amount you entered on your application for 2014.

An annual household income of \$34,271.60 equals 175.48% of the 2013 federal poverty level (FPL) for a three-person household. At 175.48% of the FPL, the expected contribution to the cost of the health insurance premium is 5.17% of income, or \$147.65 per month.

The maximum amount of advance premium tax credit (APTC) that can be awarded equals the cost of the second lowest cost silver plan available through the Marketplace for a couple in your county (\$741.05 per month) minus your expected contribution (\$147.65 per month), which equals \$593.40 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$593.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since a household income of \$34,271.60 is 175.48% of the 2013 FPL, the Marketplace correctly found you to be 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 138.0% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$19,790.00 for a three-person household. Since \$34,271.60 is 173.18% of the 2014 FPL, the Marketplace properly found you and your spouse to be ineligible for Medicaid coverage on the information provided.

Since the August 12, 2014 determination for you and your spouse properly stated that, based on the information you provided, you were eligible to share APTC of up to \$593.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

The August 12, 2014 determination issued for your son stated that he was ineligible for Medicaid but could obtain coverage through Child Health Plus for \$9.00 per month.

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 2014 FPL of the applicable family size. Since your application indicated that your household income is \$34,271.60, which is 173.18% of the 2014 FPL, the Marketplace correctly found him to be ineligible for Medicaid coverage on the information provided.

Child Health Plus is available to a child who meets the eligibility requirements. The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in Child Health Plus depends upon the child's family household income. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month. The premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL. Since the household income is 173.18% of the FPL, the Marketplace correctly determined that your son is eligible for coverage through Child Health Plus at a premium cost of \$9.00 per month.

Since the August 12, 2014 determination for your son properly stated that, based on the information you provided, he was eligible for Child Health Plus coverage at a cost of \$9.00 per month but not eligible for Medicaid, it is correct and is AFFIRMED.

However, during your hearing you testified that your 2014 expected annual household income no longer reflects your current income situation and that you would like your financial eligibility to be reconsidered.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

The record reflects that you applied for health insurance through the Marketplace during August 2014.

You testified that you stopped working at [REDACTED] on July 11, 2014 to pursue a career in real estate and testified that you did not apply for unemployment insurance benefits (UIB). You further testified that you did not expect to receive any income for the remainder of 2014.

You were directed by the hearing officer to submit a separation/termination letter and final earnings statement from [REDACTED] to corroborate your testimony. You testified that these documents were obtainable from your former employer. The record was held open until October 2, 2014, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by October 2, 2014 and the record was closed.

Although you testified that you separated from employment in July 2014 and expect no other income for the remainder of the year, without the requested documentation we are unable to ascertain or corroborate your August 2014 income. Therefore, the record does not support redetermination of your financial eligibility at this time.

Decision

The August 12, 2014 eligibility determinations are AFFIRMED.

Effective Date of this Decision: December 2, 2014

How this Decision Affects Your Eligibility

Your eligibility has not changed.

You and your spouse remain eligible to share an advance premium tax credit of up to \$593.00 per month.

You and your spouse remain eligible for cost-sharing reductions (CSR).

Your son remains eligible for coverage through Child Health Plus with a total monthly premium of \$9.00.

If You Disagree with this Decision (Appeal Rights)

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).

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 12, 2014 eligibility determinations are **AFFIRMED**.

Your eligibility has not changed.

You and your spouse remain eligible to share an advance premium tax credit of up to \$593.00 per month.

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You and your spouse remain eligible for cost-sharing reductions (CSR).

Your son remains eligible for coverage through Child Health Plus with a total monthly premium of \$9.00.

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] [REDACTED]
[REDACTED]