



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: AP000000000840

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 23, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 19, 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 decision.

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 the NY State of Health are:

Did the Marketplace properly determine that you were eligible for advance premium tax credit in the amount of \$80.00 as of August 18, 2014?

Did the Marketplace properly determine that you were ineligible for Medicaid as of August 18, 2014?

Procedural History

The Marketplace received your initial application for health insurance on August 18, 2014 and made a preliminary determination that, with an expected household income of \$36,679.00, you were eligible to enroll in a qualified health plan and eligible to receive up to \$80.00 in advance premium tax credit (APTC).

On August 18, 2014 you also spoke to the Marketplace's Customer Service Unit and submitted an appeal request.

On August 19, 2014 the Marketplace issued a notice of eligibility determination on your August 18, 2014 application. It confirmed that, with a household income of \$36,679.00, you were eligible for up to \$80.00 per month of APTC but not eligible for cost-sharing reductions or Medicaid coverage.

On September 23, 2014 you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was held open until September 30, 2014 to allow you to submit additional documentation.

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On September 23, 2014 you submitted an Earnings Statement from [REDACTED] and Unemployment Insurance Monetary Benefit Determination statements. The evidence was made part of the record, and the record was closed. The record is now complete and closed.

Findings of Fact

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

1. You testified that you plan on filing your 2014 federal income tax return as single and that you will claim no dependents on that tax return.
2. Your August 18, 2014 Marketplace application states that you have a 2014 expected yearly income of \$36,679.00. It states that you expect \$28,697.00 in earned income and \$7,982.00 in unemployment insurance benefits.
3. You testified that you were employed at the [REDACTED] on a per diem basis until July 28, 2014.
4. You submitted an Earnings Statement from [REDACTED] for the pay period ending July 31, 2014. It states that you received gross income of \$3,770.00 on July 31, 2014 with a year-to-date gross income of \$28,697.50.
5. You testified that you applied for unemployment insurance benefits between August 12, 2014 and August 14, 2014. You submitted unemployment insurance monetary benefit determinations with mailed dates of August 18, 2014 and August 27, 2014.
6. You testified that you received three payments of \$291.00 of unemployment benefits during August 2014. The determination with a mail date of August 18, 2014 states that your weekly benefit rate is \$291.00 and the determination mailed on August 27, 2014 states a weekly benefit rate of \$405.00.
7. According to your Marketplace application, you applied for health insurance through the Marketplace on August 18, 2014.
8. According to your Marketplace application, you are not currently receiving Medicaid benefits.
9. You reside in Queens County, New York.

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)).

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 300% but less than 400% of the 2013 FPL, the expected contribution is between 9.50% 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).

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 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)).

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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)).

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 must be 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 person who is eligible for Medicaid coverage is not eligible for APTC (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(2)).

Legal Analysis

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

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

The August 19, 2014 eligibility determination was based on an expected 2014 income of \$36,679.00, which includes \$28,697.00 of earned income and \$7,982.00 in unemployment benefits. Annual household income of \$36,679.00 equals 319.23% of the 2013 federal poverty level (FPL) for a one-person household. At 319.23% of the FPL, the expected contribution to the cost of the health insurance premium is 9.50% of income, or \$290.38 per month.

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The maximum amount of advance premium tax credit (APTC) that can be authorized equals the cost of the second lowest cost silver plan in your county (\$370.52 per month) minus your expected contribution (\$290.38 per month), which equals \$80.14 per month. Therefore, calculating to the nearest dollar, the Marketplace correctly determined your APTC to be \$80.00 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 \$36,679.00 is 319.23% of the 2013 FPL, the Marketplace correctly found you to be ineligible for cost-sharing reductions on the information available.

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 \$16,105.00 for a one-person household. Since \$36,679.00 is 227.75% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid coverage based on the information provided.

Since the August 19, 2014 determination properly stated that, based on the annual income information you provided, you were eligible for APTC of up to \$80.00 per month but not eligible for cost-sharing reductions or Medicaid, it is correct and is AFFIRMED.

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

The credible evidence of record indicates that your employment at the [REDACTED] [REDACTED] ended on July 28, 2014 and that your August 2014 income consists entirely of \$873.00 in unemployment insurance benefits (three payments of \$291.00 each).

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 \$873.00 for the month of August 2014.

Therefore, the case is returned to the Marketplace to redetermine eligibility for financial assistance based on a one-person household with an August 2014 income of \$873.00.

Decision

The August 19, 2014 eligibility determination is AFFIRMED.

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Effective Date of this Decision: December 2, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$80.00.

However, your case is being returned to the Marketplace for a redetermination of your financial eligibility based on a one-person household with an August 2014 income of \$873.00.

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):

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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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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The August 19, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$80.00.

However, your case is being returned to the Marketplace for a redetermination of your financial eligibility based on a one-person household with an August 2014 income of \$873.00.

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]