



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: AP000000000846

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 24, 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 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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Issue

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

Did the Marketplace properly determine that you are eligible to enroll in a qualified health plan without subsidies as of August 18, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of August 18, 2014?

Procedural History

The Marketplace received your application on August 18, 2014.

On August 18, 2014, the Marketplace prepared a preliminary determination that you are eligible to enroll in a qualified health plan without financial assistance.

On August 18, 2014, you spoke with a representative in the Marketplace's Customer Service Unit and appealed that determination.

On August 19, 2014, the Marketplace issued a notice of eligibility determination stating that you are eligible to enroll in a qualified health plan but that you are not eligible for tax credits to help cover the cost of your insurance, cost-sharing reductions, or Medicaid.

On September 24, 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 21 days to allow you the opportunity to submit documents by fax.

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On October 14, 2014, the Marketplace uploaded your 1 page fax to your Marketplace Account, which was an August 2014 Income Statement from the business you had started-up recently. This 1-page fax was marked as "Appellant's Exhibit A" and made part of the record. The record was closed on October 15, 2014.

Findings of Fact

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

- 1) You are single and live in Nassau County, New York.
- 2) You plan on filing your 2014 tax return as single, claiming no dependents.
- 3) You testified that you separated from employment on June 20, 2014 and did not receive a severance package.
- 4) You testified that your health insurance coverage through your employer ended on June 30, 2014, and you could not afford to continue it through COBRA.
- 5) You testified that your year-to-date earnings from that employment through June 20, 2014 are \$50,922.40, as stated on your Marketplace application.
- 6) You testified that you applied for and were denied unemployment insurance benefits in the beginning of July 2014.
- 7) You testified that you started up a new business on July 14, 2014.
- 8) You testified and provided documentary proof that, during August 2014, the business' revenue from gross sales was \$4,940.00 and its expenses totaled \$4,928.46, with an ending balance of \$391.44, which included net operating income and gain on sales (Appellant's Exhibit A).
- 9) You testified that you left the balance of \$391.44 in the business account for future expenditures.
- 10) You testified that your gross sales and expenses during September 2014 will be comparable to those in August 2014.
- 11) You testified that you did not draw a salary in August 2014 or September 2014, because of business expenses related to the start-up of your new business.

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12) You testified that you had no other sources of income in August 2014 or September 2014.

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)).

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 only 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 a 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)).

An individual is eligible for enrollment in Medicaid when he 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

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§ 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, your tax household consists of yourself. You plan on filing your 2014 tax return as single and will not claim any dependents. Therefore, you have a one-person household for purposes of this analysis.

According to your Marketplace application and your testimony, your expected income is \$50,922.40 during 2014. This is the amount the Marketplace used to calculate your eligibility for subsidies as reflected in the August 19, 2014 eligibility determination.

An annual household income of \$50,922.40 equals 443.19% of the 2013 FPL for a one-person household. Since the advance premium tax credit (APTC) is available only to a person whose household income is at or below 400% of the FPL, the August 29, 2014 notice properly stated that you did not qualify for APTC.

Cost-sharing reductions (CSR) are available to a person who qualifies for APTC and has a household income up to 250% of the FPL. Since you do not qualify for APTC and your household income is 443.19% of the FPL, the August 29, 2014 notice properly stated that you did not qualify for CSR.

Medicaid is available to a person whose household income is no higher than 138% of the FPL. Since the 2014 FPL is \$11,670.00, \$50,922.40 equals 436.35% of the relevant FPL, the August 29, 2014 notice properly stated that you did not qualify for Medicaid based on the information in your application.

Since the August 29, 2014 notice properly stated that you did not qualify for APTC, CSR, or Medicaid, it is correct and is **AFFIRMED**.

However, during your hearing you testified that your year-to-date earned income no longer reflects your current income situation and 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.

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Since the record suggests that the Marketplace calculated your August 18, 2014 eligibility by expected annual income but not by monthly income, your eligibility for financial assistance should be considered on the basis of monthly income.

You credibly testified that you separated from employment during July 2014, were denied unemployment insurance benefits, and received no income during August 2014, the month during which you applied. Therefore, your income for August 2014 is \$0.00.

Accordingly, the case is returned to the Marketplace to redetermine eligibility for a one-person household with an August 2014 income of \$0.00.

Decision

The August 19, 2014 eligibility determination is AFFIRMED.

This case is returned to the Marketplace to redetermine your eligibility for financial assistance a member of a one-person household with an August 2014 income of \$0.00.

Effective Date of this Decision: December 3, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain eligible to enroll in a qualified health plan without subsidies through the Marketplace.

It does return your case to the Marketplace for a redetermination of your eligibility for financial assistance, using a one-person household and an August 2014 income of \$0.00.

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:

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- 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 19, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility. You remain eligible to enroll in a qualified health plan without subsidies through the Marketplace.

It does return your case to the Marketplace for a redetermination of your eligibility for financial assistance, using a one-person household and an August 2014 income of \$0.00.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]