



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: AP000000000847

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 26, 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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Issues

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

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

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

Procedural History

On August 18, 2014, the Marketplace received your application and made a preliminary determination that, with an annual household income of \$50,922.40 you were not eligible for financial assistance.

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

On August 21, 2014, the Marketplace issued a notice of eligibility redetermination that, with a household income of \$50,922.40 you were eligible to enroll in a qualified health plan but ineligible for Medicaid, tax credits to help with the cost of your insurance, or cost-sharing reductions.

The Marketplace sent you a Notice of Telephone Hearing on August 26, 2014 for a scheduled telephone hearing on September 12, 2014. The Hearing Officer contacted you as scheduled and you requested an adjournment. The Hearing Officer rescheduled the hearing for September 26, 2014 at 2:30 p.m.

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On September 26, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You waived formal notice of the hearing through sworn testimony. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to upload or fax documents to support your testimony.

On September 26, 2014, the Marketplace's Appeals Unit received a 5-page fax from you. It consisted of 1) a cover sheet; 2) a copy of your last pay stub; 2) a copy of the Department of Labor's July 17, 2014 Notice denying unemployment insurance benefits; and 3) a copy of the June 25, 2014 termination of benefits letter. Collectively, these documents were made part of the record as "Appellant's Exhibit A." The record was then closed.

Findings of Fact

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

- 1) You are single, have no dependents, and live in Nassau County, New York.
- 2) You plan on filing your 2014 tax return as single.
- 3) You testified that you resigned from your employment and that your last day of work was June 20, 2014.
- 4) Your employer informed you in writing that your medical, dental, and vision benefits were terminated as of June 30, 2014 (Appellant's Exhibit A at p.4-5).
- 5) You testified that you applied for and were denied unemployment insurance benefits.
- 6) A July 12, 2014 Notice of Determination from the New York State Department of Labor indicates that you separated from employment on June 20, 2014, and that no unemployment benefits will be paid for the period beginning June 21, 2014, until you have subsequently worked for an employer and earned at least 10 times your weekly benefit rate (Appellant's Exhibit A at p.3).
- 7) You testified that you did not apply for COBRA because you thought you could find a more affordable health plan through the Marketplace.
- 8) You testified that your year-to-date earnings are \$50,922.40.
- 9) The record contains an August 8, 2014 paystub showing current gross earnings of \$1,676.35 and year-to-date gross earnings of \$50,922.40 (Appellant's Exhibit A at p.2).

10) You testified that you did not earn any income in August 2014, and do not expect to earn any income for the remainder of 2014 unless you find a job.

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 (FPL); (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 are available only to a person who (1) is eligible to enroll in a qualified health plan through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have a 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 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 FPL 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.

According to your Marketplace application and your testimony at the hearing, you earned \$50,922.40 before you separated from employment. You have been denied unemployment insurance benefits and credibly testified that you have no other sources of income. This supports the finding your expected 2014 income is \$50,922.40, which is the household income used for the August 19, 2014 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 21, 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 21, 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, and the August 21, 2014 notice properly stated that you did not qualify for Medicaid, based on the information in your application.

Since the August 21, 2014 notice properly stated that you did not qualify for APTC, CSR, or Medicaid, it is correct and is **AFFIRMED**.

However, at the hearing you testified that your 2014 expected household income no longer reflects your current income situation and that you would like your financial eligibility reconsidered.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. For a household of one in 2014, the maximum allowable income to be eligible for Medicaid is \$16,105 (138% federal poverty level (FPL)), which is \$1,343 per month.

Since the record suggests that the Marketplace calculated your August 19, 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 and provided documentary proof that you received a bonus of \$1,676.35 gross in August 2014, the month during which you submitted your application. As this amount exceeds the limit for Medicaid eligibility you remain ineligible for Medicaid during August 2014.

However, you further credibly testified that you had no income for the month of September 2014. Therefore, your income for September 2014 is zero.

Accordingly, the case is returned to the Marketplace to redetermine eligibility for a one-person household with a September 2014 income of zero.

Decision

The August 21, 2014 eligibility determination is AFFIRMED.

This case is returned to the Marketplace to redetermine your eligibility for financial assistance as a member of a one-person household with a September 2014 income of zero.

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 a subsidy through the Marketplace.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and a September 2014 income of zero.

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:

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).

- 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 a September 2014 income of zero.

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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]