



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

Notice of Decision

Decision Date: December 5, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000849

[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 20, 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 are eligible for an advance premium tax credit of up to \$310.00 per month and, if you selected a silver-level qualified health plan, for cost-sharing reductions as of August 19, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of August 19, 2014?

Procedural History

The Marketplace received your application on August 19, 2014, and made a preliminary determination that, with an annual household income of \$17,583.95, you are eligible to receive an advance premium tax credit of up to \$310.00 per month and, if you selected a silver-level qualified health plan, for cost sharing reductions.

On August 19, 2014, you spoke with a representative in the Marketplace's Customer Service Unit and appealed that determination.

On August 20, 2014, the Marketplace issued a notice of eligibility determination that you are eligible to receive up to \$310.00 in advance premium tax credit (APTC) per month and eligible for cost-sharing reductions, provided you are enrolled in a silver level qualified health plan, but not eligible for Medicaid.

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On September 26, 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 to allow you to submit documentary proof.

The Appeals Unit received a 3 page fax from you immediately after the hearing. It consisted of: 1) A cover page; 2) A letter from your employer, dated July 10, 2014, indicating your medical/dental benefits will end July 31, 2014; and 3) A copy of an Explanation of Disability Benefits. This 3 page fax has been made part of the record collectively 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, with no dependents and live in Queens County.
- 2) You plan on filing your 2014 income tax return with the filing status of single.
- 3) According to your August 19, 2014 application, during 2014 you earned \$12,143.95 and received \$5,440.00 in pension and annuities. You testified that you no longer receive any pension or annuity income.
- 4) You testified that you have been out of work since May 2014 and have been receiving disability benefits since May 9, 2014.
- 5) An Explanation of Disability Benefits for the period from September 16, 2014 to September 29, 2014 indicates that your disability was incurred on May 9, 2014, and that your benefit amount for that two-week period was \$340.00 (Appellant's Exhibit A at p.3).
- 6) A July 10, 2014 correspondence from your employer states that your medical/dental coverage ends on July 31, 2014 (Appellant's Exhibit A at p.2).

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

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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).

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)).

An individual is eligible for enrollment in Medicaid when 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

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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)).

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.

On your August 19, 2014 application you attested to an expected 2014 income of \$17,583.95, and the eligibility determination on appeal relied upon that information.

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

An annual household income of \$17,583.95 equals 153.04% of the 2013 federal poverty level (FPL) for a one-person household. At 153.04% of the FPL, the expected contribution to the cost of the health insurance premium is 4.14% of income, or \$60.66 per month.

The maximum amount of advance premium tax credits that can be authorized equals the cost of the second lowest cost silver plan in your county (\$370.52) minus your expected contribution (\$60.66 per month), which equals \$309.86 per month. Therefore, the Marketplace correctly computed your advance premium tax credit, rounded to the nearest dollar, to be \$310.00 per month on an expected-income basis.

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 \$17,583.95 is 153.04% 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 FPL was \$11,670.00

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for a one-person household. Since \$17,583.95 is 150.68% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid coverage on an expected-income basis, relying on the information provided in your application.

Since the August 20, 2014 determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$310.00 per month and eligible for cost-sharing reductions but not eligible for 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 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. To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL which is \$1,343 per month.

Although the Marketplace properly determined your eligibility on the basis of expected annual income, your eligibility for financial assistance should also be considered on the basis of current monthly income.

You credibly testified that the only income you received during August 2014, the month during which you submitted your application, consisted of two payments of short-term disability benefits of \$340.00 gross. Therefore, the record supports a finding that your gross income for August 2014 was \$680.00.

Accordingly, the case is returned to the Marketplace to redetermine eligibility for a one-person household with an August 2014 income of \$680.00.

Decision

The August 20, 2014 eligibility determination is AFFIRMED.

The case is returned to the Marketplace for redetermination of your eligibility for financial assistance, based on a one-person household with an August 2014 income of \$680.00.

Effective Date of this Decision: December 5, 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 \$310.00 per month and eligible for cost-sharing reductions.

However, it does direct the Marketplace to redetermine your eligibility for financial assistance, taking into account the additional information you provided during and after your hearing. The Marketplace will issue another notice after it redetermines your eligibility.

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
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 20, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$310.00 per month and eligible for cost-sharing reductions.

However, it does direct the Marketplace to redetermine your eligibility for financial assistance, taking into account the additional information you provided during and after your hearing.

The case is returned to the Marketplace for redetermination of your eligibility for financial assistance, based on a one-person household with an August 2014 income of \$680.00.

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]