



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

Notice of Decision

Decision Date: December 9, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000859

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

Dear [REDACTED],

On September 25, 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 the 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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[REDACTED]

Issue

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

Did the Marketplace properly determine that you were eligible for \$37.00 per month in advance premium tax credit as of August 19, 2014?

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

Procedural History

The Marketplace received your application for health insurance on August 19, 2014.

That same day, the Marketplace made a preliminary redetermination that you were eligible for up to \$37.00 per month in advance premium tax credit.

On August 20, 2014, the Marketplace issued a notice consistent with the preliminary eligibility determination; it stated that you were eligible to enroll in a qualified health plan and that, based on an annual household income of \$42,130.00, you were entitled to up to \$37.00 per month in advance premium tax credit. The notice also stated that you were not eligible for cost-sharing reductions or Medicaid because the household income you provided of \$42,130.00 was over the allowable income limit for those programs.

On August 21, 2014, you spoke with the Marketplace's Customer Service Unit and appealed that determination.

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On September 25, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was left open for up to 15 days to allow you time to submit supporting documentation. The Marketplace's Appeals Unit did not receive your supporting documentation within the 15-day period and the record was closed on October 10, 2014.

Findings of Fact

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

- 1) You testified that you plan on filing your 2014 income tax return as Single and will claim no dependents on your tax return.
- 2) You testified that your last day of employment was July 13, 2014.
- 3) According to your August 19, 2014 application, you attested to a household income of \$42,130.00. You listed earned income of \$31,600.00 and income from unemployment insurance benefits of \$10,530.00. During your hearing you testified that if you had remained employed, your annual income would have been \$65,000.00.
- 4) You testified that you applied for unemployment benefits in mid-July.
- 5) You testified that you were found eligible for \$405.00 per week in unemployment benefits.
- 6) You testified that you received your first unemployment benefits payment in August and that you received 2 unemployment benefits payments during August.
- 7) You testified that you will receive unemployment benefits until the end of January, unless you are able to find new employment.
- 8) You testified that since July 13, 2014, the only income you have received is from unemployment benefits.
- 9) According to your Marketplace application, you reside in Queens County.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Advance Premium Tax Credit

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 advance premium tax credit 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 federal poverty level, 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

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

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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)).

Medicaid

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 § 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 income tax return for 2014 and to claim no dependents.

In the application that was submitted on August 19, 2014, you attested to an expected yearly income of \$42,130.00, and the eligibility determination relied upon that information.

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.

An annual income of \$42,130.00 is 366.67% of the 2013 federal poverty level (FPL) for a one-person household. At 366.67% of the FPL, the expected

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contribution to the cost of the health insurance premium is 9.5% of income, or \$333.00 per month.

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 (\$370.00 per month) minus your expected contribution (\$333.00 per month), which equals \$37.00 per month. Therefore, the Marketplace correctly computed your APTC to be \$37.00 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 \$42,130.00 is 366.67% of the 2013 FPL, the Marketplace correctly found you to be ineligible 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 \$11,670.00 for a one-person household. Since \$42,130.00 is 360.01% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the August 22, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$37.00 per month, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

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

You testified that the only income you received during August 2014, the month in which you submitted your application, consisted of unemployment benefits. You testified that you received two payments, for \$405.00 each, during August. Therefore, your attested income for August is \$810.00.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Since the record suggests that the Marketplace calculated your August 19, 2014 eligibility by expected annual income but not by monthly income, the case should be returned to the Marketplace for an eligibility determination on monthly income.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a one-person household with an attested August 2014 income of \$810.00.

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 a total income of \$810.00 for the month of August 2014.

Effective Date of this Decision: December 9, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, taking into account the additional information you provided during and after your hearing. The Marketplace will issue another notice after it redetermines your eligibility.

Currently, you remain eligible for an advance premium tax credit of up to \$37.00 per month.

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

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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:
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- By fax: 1-855-900-5557

Summary

The August 20, 2014 eligibility determination is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$37.00 per month.

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, 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 a total income of \$810.00 for the month of August 2014.

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]