



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

Notice of Decision

Decision Date: September 25, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000860

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 18, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 21, 2014 and August 22, 2014 eligibility determinations.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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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Issue

The issue presented for review by the Appeals Unit of the NY State of Health is:

Did the Marketplace properly determine that as of August 21, 2014 you were ineligible for Medicaid, eligible for \$258.00 per month in advance premium tax credit, and eligible to receive cost-sharing reductions provided that you enrolled in a silver-level health plan?

Procedural History

The Marketplace received your application for health insurance on August 18, 2014.

On August 21, 2014, an eligibility determination notice was issued. That notice stated that you were eligible to enroll in a qualified health plan (QHP) and to receive up to \$258.00 per month in advance premium tax credit (APTC). It also stated that you were eligible for cost-sharing reductions (CSR), provided you enrolled in a silver-level health plan. You were not eligible for Medicaid.

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

On August 22, 2014, another eligibility determination notice was issued. It contained the same eligibility results at the August 21, 2014 notice.

On September 18, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and it was left open for 15 days to give you the opportunity to submit additional evidence. Shortly after the hearing on September 18, 2014, you faxed in the requested evidence to the Marketplace's Appeals Unit. The record is now 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 tax return as Single and will claim no dependents on that tax return.
- 2) You testified and provided evidence that on May 12, 2014, you went on FMLA disability leave from your job.
- 3) You testified and provided evidence that you continued to receive paychecks from your job during your FMLA disability leave. The last paycheck you received was dated July 3, 2014 for the gross pay amount of \$654.46. Part of that gross pay went to pay premiums for health insurance.
- 4) You testified and provided evidence that your total household income from January 1, 2014 to July 3, 2014 was \$22,343.67.
- 5) You testified and provided evidence that you officially retired from your job on August 1, 2014.
- 6) You testified that you received \$0.00 in income for the month of August.
- 7) You testified and provided evidence that you applied and were approved for Social Security Retirement benefits in August. However, you did not receive your first check until September 10, 2014 for a gross pay amount of \$930.00
- 8) You testified that you plan on receiving additional retirement benefits from your previous employer, but you do not know the amount or when those benefits will start.
- 9) According to your Marketplace application, you reside in Kings County.
- 10) You testified that you cannot currently afford an insurance premium on your current monthly income.

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 in the range of at least 150% but less than 200% of the 2013 FPL, the expected contribution is between 4.00% and 6.30% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

For a one-person household, the 2013 FPL is \$11,490.00 (78 Fed Reg 5182, 5183 (2013)).

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 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 adult is eligible for enrollment in Medicaid through the Marketplace 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)). 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.

You reside in Kings County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$370.53 per month.

According to your Marketplace application and your testimony at the hearing, you earned \$22,343.67 in 2014 before you separated from employment. This supports a finding that your expected 2014 income at the time of the August 21, 2014 and August 22, 2014 eligibility determinations was \$22,343.67.

An annual household income of \$22,343.67 equals 194.46% of the 2013 FPL for a one-person household. At 194.46% of the FPL, the expected contribution to the cost of the health insurance premium is 6.05% of income, or \$112.65 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$370.53 per month) minus your expected contribution (\$112.65 per month), which equals \$257.88 per month. Therefore, the Marketplace, rounding to the nearest dollar, correctly computed your APTC to be \$258.00 per month on an expected-income basis.

Cost sharing reductions are available to a person who has an annual expected household income no greater than 250% of the FPL. Since your annual household income is 194.46% of the FPL, you were correctly found eligible for cost sharing reductions.

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

You credibly testified and provided evidence that you received \$0.00 income for the month of August. Therefore, your income for August of 2014 is found to have been \$0.00.

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 21, 2014 and August 22, 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 in Kings County, with an August 2014 income of \$0.00.

Decision

The August 21, 2014 and August 22, 2014 eligibility determinations are AFFIRMED.

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

Effective Date of this Decision: September 25, 2014

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$258.00 per month as well as cost-sharing reductions provided you enroll in a silver level health plan.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household in Kings County 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:

- 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)).

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).

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 21, 2014 and August 22, 2014 eligibility determinations are **AFFIRMED**.

You remain eligible for an advance premium tax credit of up to \$258.00 per month as well as cost-sharing reductions provided you enroll in a silver level health plan.

Your case is returned to the Marketplace for a redetermination of your eligibility, 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).

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).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]