



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: AP000000000871

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 23, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 21, 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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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000871

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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 receive an advance premium tax credit of up to \$147.00 per month and, if you enroll in a silver-level qualified health plan, for cost-sharing reductions as of August 21, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of August 21, 2014?

Procedural History

The Marketplace received your application on August 21, 2014, and made a preliminary determination that you were eligible to receive an advance premium tax credit (APTC) of up to \$147.00 per month based on an annual household income of \$41,800.01 and to get cost-sharing reductions if you enrolled in a silver-level qualified health plan.

On that same day, you spoke with a representative in the Marketplace's Customer Service Unit and appealed the determination insofar as it stated that your maximum APTC was \$147.00 per month.

On August 22, 2014, the Marketplace issued a written notice of eligibility determination in your case. It was consistent with the preliminary eligibility determination. It also told you that you are not eligible for Medicaid because your household income of \$41,800.01 is over the allowable income limit of \$27,310.00.

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On September 23, 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 held open for up to fifteen days to allow you the opportunity to send in income documents. The record was to be held open until October 8, 2014, or upon receipt of your submitted documents, whichever occurred earlier.

On October 7, 2014, the Marketplace's Appeal Unit received a fax from you that consisted of a cover page and a letter from your employer. Collectively, it has been marked as "Appellant's Exhibit A" and made part of the record. The record was closed that same day.

Findings of Fact

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

- 1) You are single and live with your two children and your domestic partner in Westchester County, New York.
- 2) You plan on filing your 2014 taxes using the tax filing status of single and claiming your two children as dependents.
- 3) You expect to claim a deduction of \$5,000.00 for moving expenses on your 2014 income tax return.
- 4) You were not employed from January 1, 2014 to June 30, 2014, and had no income during that period.
- 5) Your domestic partner is a full-time student and has no income for 2014.
- 6) You testified you began working in New York in July 2014.
- 7) An October 3, 2014 correspondence from your employer states that (1) you have been an employee since the beginning of July 2014; (2) you do not have formal pay stubs; (3) you receive a check every two weeks; (4) your gross pay per pay period is \$2,000.00 and net pay is \$1,800.00; and (5) you have earned \$16,000.00 gross and \$14,400.00 net as of October 3, 2014 (Appellant's Exhibit A at p.2).
- 8) Only you need health insurance through the Marketplace.

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

Applicable Law and Regulations

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 200% but less than 250% of the 2013 federal poverty level (FPL), the expected contribution is between 6.3% and 8.05% 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 \$19,530.00 for a three-person household (78 Fed. Reg. 5182, 5183).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a qualified health plan 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% 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 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)).

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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; (4) are not otherwise eligible for and enrolled for mandatory coverage under Medicaid; and (5) have a household modified adjusted gross income that is at or below 138% of the current FPL for the applicable family size (42 CFR §§ 435.119(b), 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 \$19,790.00 for a three-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).

Once an individual becomes eligible for Medicaid, they are not eligible for APTC (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(2)).

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a Qualified Health Plan (QHP). Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605(a), (g)).

NY State of Health currently defers to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)). For assistance, the Federal Marketplace website is www.healthcare.gov.

Legal Analysis

The issue on appeal is whether the Marketplace properly determined that you were eligible for an advance premium tax credit of up to \$147.00 per month.

In the application that was submitted on August 21, 2014, you attested to an expected yearly income of \$41,800.01, and the August 22, 2014 eligibility determination relied upon that information.

According to the record, your tax household consists of you and your two minor children. You plan on filing your 2014 tax return as single and will claim your two

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children as dependents. Therefore, you have a three-person tax household for purposes of this analysis.

You reside in Westchester County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$383.18 per month.

An annual household income of \$41,800.01 equals 214.03% of the 2013 federal poverty level (FPL) for a three-person household. At 214.03% of the FPL, the expected contribution to the cost of the health insurance premium is 6.79% of income, or \$146.63 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$383.18 per month) minus your expected contribution (\$146.63 per month), which equals \$236.55 per month.

Therefore, the Marketplace correctly computed your APTC, as rounded to the nearest dollar, to be \$147.00 per month on an expected-income basis of \$41,800.01 for a three-person household.

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 \$41,800.01 is 214.03% 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 relevant FPL was \$19,790.00 for a three-person household. Since \$41,800.01 is 211.22% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid coverage on 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 \$147.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, you testified that you had no household income from January 1, 2014 to June 30, 2014. You credibly testified and provided documentary proof that your expected income for 2014 consists of \$16,000.00 gross earnings from July through October 3, 2014 and that your gross earnings from October 3 until the end of the year will be \$1,000.00 per week. Since there are 12.5 weeks between October 3, 2014 and the end of the year, your expected earnings for that period are \$12,500.00. According to your testimony, you expect to take a tax deduction of \$5,000.00 for moving expenses that can be deducted from gross income on your tax return. Therefore, according to the information you provided on appeal, a reasonable estimate of your expected 2014 income is \$23,500.00 (\$16,000.00 + \$12,500.00 - \$5,000.00).

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Since corrected information on income has been provided on appeal, the case is returned to the Marketplace for redetermination of your eligibility for financial assistance based on an expected 2014 income of \$23,500.00 and a current weekly income of \$1,000.00 per week.

Decision

The August 22, 2014 eligibility determination is AFFIRMED.

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 receive an advance premium tax credit of up to \$147.00 per month and, if you enroll in a silver-level qualified health plan, for cost-sharing reductions. You remain ineligible for Medicaid.

Your case is returned to the Marketplace for redetermination of your eligibility for financial assistance based on a three-person household with an expected 2014 income of \$23,500.00 and a current weekly income of \$1,000.00 per week.

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.

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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 22, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$147.00 per month and, if you enroll in a silver-level qualified health plan, for cost-sharing reductions. You remain ineligible for Medicaid.

Your case is returned to the Marketplace for redetermination of your eligibility for financial assistance based on a three-person household with an expected 2014 income of \$23,500.00 and a current weekly income of \$1,000.00 per week.

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]