



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

Notice of Decision

Decision Date: December 31, 2014

[REDACTED]
Appeal Identification Number: AP000000000880

[REDACTED]
[REDACTED]
[REDACTED]
Dear [REDACTED]

On September 25, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 26, 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, as of August 25, 2014, you were eligible to receive up to \$272.00 per month in advance premium tax credit, and, provided you enrolled in a silver level health plan, eligible for cost-sharing reductions?

Did the Marketplace properly determine that, as of August 25, 2014, you were ineligible for Medicaid?

Procedural History

The Marketplace received your application for health insurance on August 25, 2014.

That same day, the Marketplace made a preliminary determination that you were eligible for up to \$272.00 per month in advance premium tax credit (APTC). You were also eligible to receive cost-sharing reductions (CSR) if you enrolled in silver level health plan.

That same day, you spoke with the Marketplace's Customer Service Unit and appealed that determination.

On August 26, 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 (QHP) and that, based on an annual household income of \$21,150.00, you were eligible to receive up to \$272.00 per month in APTC. You

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were also found eligible for CSR if you enrolled in silver level health plan. The notice also stated that you were not eligible for Medicaid because the household income you provided of \$21,150.00 was over the allowable income limit of \$16,105.00.

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 15 days to provide you time to submit additional evidence to the Marketplace.

Findings of Fact

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

- 1) In your application you attested that you were single, and you testified that you planned on filing your 2014 tax return as Single and would claim no dependents on that tax return.
- 2) You testified that your expected annual income for 2014 is about \$21,150.00, which is also the income reported on your application.
- 3) You testified that the \$21,150.00 is the amount of income you earned from your job before you lost your job at the end of May.
- 4) You testified that you received your last check from your job at the beginning of June 2014.
- 5) You testified that you have not applied for Unemployment Benefits because when you applied a couple of years ago you were denied.
- 6) You testified that in August 2014 you did a short-term contracting job. You were paid less than \$1,000.00. You further testified that this is the last time you received any form of income.
- 7) You testified that for the month of September your income was \$0.00.
- 8) You testified that you are attempting to find another job.
- 9) According to your Marketplace application, you reside in Kings County.
- 10) You testified that you would like your eligibility for financial assistance to be reconsidered because you do not have the money to pay for health insurance.

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 (APTC) is available to a person who is eligible to enroll in a qualified health plan (QHP) 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 QHP; 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)).

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 (CSRs) are available only to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual 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 QHP (45 CFR § 155.305(g)(1)).

Medicaid

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

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit of up to \$272.00 per month.

In the application that was submitted on August 25, 2014, you attested to an expected yearly income of \$21,150.00, and the eligibility determination relied upon that information. According to your testimony at the hearing, you also earned an amount less than \$1,000.00 from a contracting job in August. Since there is no proof of the actual amount you earned from that contracting job, and there is no significant difference in the amount of advance premium tax credit (APTC) that can be authorized based on an increase of less than \$1,000.00, we will use the income of \$21,150.00 to determine your APTC eligibility.

According to the record you are the only person in 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 \$370.52 per month.

An annual household income of \$21,150.00 equals 184.07% of the 2013 federal poverty level (FPL) for a one-person household. At 184.07% of the FPL, the expected contribution to the cost of the health insurance premium is 5.57% of income, or \$98.17 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 (\$98.17 per month), which equals \$272.35 per month. Therefore, the Marketplace correctly computed your APTC to be \$272.00 per month on an expected-income basis.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 184.07% of the FPL, you were correctly found 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% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,490.00 for a one-person household. Since \$21,150.00 is 181.23% 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 26, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$272.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

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 that you have not received any income since August when you received a small amount of income from a contracting job. Therefore, your monthly income for September 2014, and continuing, has 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.

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Since the record suggests that the Marketplace determined your eligibility by expected annual income but not by current monthly income, the case should be returned to the Marketplace for a redetermination of eligibility using an income of \$0.00 for the month of September 2014.

Therefore, the case is returned to the Marketplace to redetermine eligibility for financial assistance based on a one-person household with a September 2014 income of \$0.00.

Decision

The August 26, 2014 eligibility determination is AFFIRMED, as it was correct at the time it was issued.

However, based on your testimony of a change in income, this case is returned to the Marketplace to redetermine eligibility for a one-person household in Kings County, with a September 2014 monthly income of \$0.00.

Effective Date of this Decision: December 31, 2014

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$272.00 per month.

You remain eligible for cost-sharing reductions if you enroll in a silver level health plan.

However, your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household in Kings County, and an attested September 2014 monthly 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:

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- 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 26, 2014 eligibility determination is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$272.00 per month, and you remain eligible for cost sharing reductions

However, your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household in kings County and an attested September 2014 monthly income of \$0.00.

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]