



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

Notice of Decision

Decision Date: December 23, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000882

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 17, 2014, you appeared by telephone at a hearing on your appeal of 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).

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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 were eligible to receive an advance premium tax credit of up to \$283.00 monthly and, if you selected a silver-level qualified health plan, for cost-sharing reductions as of August 20, 2014?

Did the Marketplace properly determine that you were not eligible for Medicaid through the Marketplace as of August 20, 2014?

Procedural History

The Marketplace received your application on August 4, 2014, which you updated several times.

On August 21, 2014, the Marketplace issued a notice of eligibility determination stating that you were eligible to receive an advance premium tax credit of up to \$283.00 monthly and, if you selected a silver-level qualified health plan, for cost-sharing reductions. It further stated that you were not eligible for Medicaid because your reported household income of \$16,240.00 was over the allowable income limit of \$16,105.00.

On August 25, 2014, you called the Marketplace's Account Review Unit and appealed that determination.

The Marketplace sent you a Notice of Telephone Hearing on September 3, 2014 for a scheduled telephone hearing on October 1, 2014. Before the hearing time

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that day, you contacted the Marketplace and requested that the hearing be rescheduled. Accordingly, the Marketplace sent you a Notice of Telephone Hearing on October 1, 2014, for a scheduled telephone hearing on October 17, 2014.

On October 17, 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 for up to 15 days to allow you the opportunity to submit income documents. The record was to be closed on November 2, 2014, or upon receipt of the submitted documentation, whichever occurred earlier.

On October 19, 2014, you uploaded a letter of termination of employment and medical coverage from your previous employer. It has been marked as "Appellant's Exhibit A" and made part of the record.

On October 22, 2014, the Marketplace's Appeals Unit received a 7-page fax from you. It consisted of (1) a cover sheet, (2) the last paystub from your previous employer, and (3) 5 paystubs from your most recent employer. Your evidence was marked collectively as "Appellant's Exhibit B" and was 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 in Ulster County.
- 2) You plan on filing your 2014 tax return as single and will not be claiming any dependents.
- 3) You testified that you worked full-time for your first previous employer, ██████████, from January 1, 2014, to June 2, 2014, and your year-to-date earnings from that job were \$16,620.61.
- 4) You testified that you had health insurance through ██████████ and that it ended on June 30, 2014.
- 5) The record contains a letter from ██████████, dated August 26, 2014, which states that you were employed by ██████████ until June 2, 2014, and that your last day of medical coverage under the company plan was June 30, 2014 (Appellant's Exhibit A).
- 6) The record contains your last paystub from ██████████ with a pay date of June 6, 2014, for the period ending June 1, 2014 and shows year-to-date gross earnings of \$16,620.61 (Appellant's Exhibit B, p. 2).

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- 7) You testified that you elected COBRA continuous coverage for June, July, and August 2014.
- 8) You testified and provided documentary proof that you worked part-time for your second previous employer, [REDACTED], from June 25, 2014 to September 6, 2014, and had to stop working because of a medical diagnosis that required surgery and treatment (Appellant's Exhibit B, p.7).
- 9) You testified and provided documentary proof that from August 3, 2014 to August 9, 2014 your gross pay was \$145.86; from August 10, 2014 to August 16, 2014 it was \$105.23; from August 17, 2014 to August 23, 2014 it was \$138.30; from August 24, 2014 to August 30, 2014 it was \$119.26; and from August 31, 2014 to September 6, 2014 it was \$105.40 (Appellant's Exhibit B, pp.3-7).
- 10) You testified and provided documentary proof that your year-to-date earnings from your most recent job were \$1,696.56 (Appellant's Exhibit B, p.7).
- 11) You testified that you have no other sources of income during the year, have no income after September 6, 2014, and do not expect to be able to return to work in the near future.
- 12) You testified that you cannot afford to pay monthly health insurance premiums in any amount since you have no income and are living off of credit cards.
- 13) You testified that you will need help with medical bills you incurred over the last three months.

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 (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)).

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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 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 for 2014 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 133% but less than 150% of the 2013 FPL, the expected contribution is between 3.00% and 4.00% 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 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 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 (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 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 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 \$283.00 per month.

In the application that was submitted on August 20, 2014, you attested to an expected yearly income of \$16,240.00, and the eligibility determination relied upon that information.

According to the record you are the only person in your tax household.

You live in Ulster County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$330.41 per month.

An annual household income of \$16,240.00 equals 141.34% of the 2013 FPL for a one-person household. At 141.34% of the FPL, the expected contribution to the cost of the health insurance premium is 3.5% of income, or \$47.36 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$330.41 per month) minus your expected contribution (\$47.36 per month), which equals \$283.05 per month. Therefore, the Marketplace correctly computed your APTC, as rounded to the nearest dollar, to be \$283.00 per month.

Since your income of \$16,240.00 equals 141.34% of the FPL, which is below the 250% maximum threshold for cost sharing reductions, the Marketplace also correctly determined that you are 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 \$11,670.00 for a one-person household. Since \$16,240 is 139.16% 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 21, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$283.00 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 August 2014 household income no longer reflects your current income situation and you would like your financial eligibility to be reconsidered.

You credibly testified and provided supporting documentary evidence that your income for the month of August 2014, the month during which you applied for health insurance through the Marketplace, was \$508.65, and your income for September 2014 was \$105.40.

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 a monthly income no greater than 138% of the FPL which is \$1,343.00 per month.

Since the record suggests that the Marketplace calculated your August 20, 2014 eligibility by expected annual income and not by monthly income, the case should be returned to the Marketplace for a determination of your eligibility for financial assistance based on monthly income.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a one-person household with an August 2014 income of \$508.65.

Decision

The August 21, 2014 eligibility determination is AFFIRMED.

The case is returned to the Marketplace for redetermination of your eligibility for financial assistance with a total income of \$508.65 for the month of August 2014.

Effective Date of this Decision: December 23, 2014

How this Decision Affects Your Eligibility

The August 21, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, taking into account the additional

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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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- By fax: 1-855-900-5557

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Summary

The August 21, 2014 eligibility determination is AFFIRMED.

The case is returned to the Marketplace for redetermination of your eligibility for financial assistance with a total income of \$508.65 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]