



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: AP000000000909

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

On October 2, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 6, 2014; August 21, 2014; and September 3, 2014 eligibility determinations.

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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Issue

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

Did the Marketplace properly determine that you were not eligible for financial assistance?

Procedural History

The Marketplace initially received your application for health insurance on July 28, 2014.

On August 6, 2014 and August 21, 2014, eligibility determination notices were issued on the July 28, 2014 application. The notices stated that you were eligible to enroll in a qualified health plan, but that you were not eligible for Medicaid, advance premium tax credits (APTC), or cost-sharing reductions (CSR) because your household income was over the allowable limits for each of these programs.

On September 2, 2014, you modified your application. In a preliminary determination prepared that same day, the Marketplace again determined that you were not eligible for financial assistance.

On September 2, 2014, you spoke with the Marketplace’s Account Review Unit and appealed the August 6, 2014 and August 21, 2014 determinations.

On September 3, 2014, the Marketplace issued an additional eligibility determination based on your September 2, 2014 application. The notice stated that you continued to be eligible to enroll in a qualified health plan, but that you

were not eligible for Medicaid, APTC, or CSR because your household income was over the allowable limits for each of these programs.

On October 2, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open to allow you time to submit additional evidence. Evidence was faxed to the Marketplace's Appeal's Unit shortly after the hearing. The record is now closed.

Findings of Fact

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

- 1) Your application indicates that you are single.
- 2) You testified that you plan on filing your 2014 tax return with a tax filing status of single and that you will claim no dependents on that tax return.
- 3) You testified that the current annual expected income amount on your application, \$64,105.00, is accurate.
- 4) You testified that your last day of employment was July 23, 2014.
- 5) You testified that during July you received your last two paychecks from your job. They were for gross pay of \$3,200.00 each.
- 6) You testified and provided evidence that you applied for unemployment benefits on July 28, 2014. You were approved for the gross benefit amount of \$405.00 per week.
- 7) You testified and provided evidence that you received your first check of unemployment benefits on August 22, 2014 for \$810.00, which constituted two weeks of payments in one check.
- 8) You testified that, beginning on August 27, 2014, an unemployment benefits payment of \$405.00 has been released to you every Wednesday.
- 9) You testified that since August 1, 2014 the only income you have received is your unemployment benefits.
- 10) You testified that every month you incur a large number of expenses. Those expenses include \$1,425.00 in rent, \$121.00 in utilities, \$100.00 in payment on a debt settlement, and \$455.00 in other living expenses. You further testified that you believed these expenses should be taken into account when calculating your eligibility for financial assistance.

11) You testified that you believed the Marketplace should not include income you already earned, or income that you expect to receive, in calculating your eligibility for financial assistance because those figures do not accurately reflect your current monthly income.

12) According to your Marketplace account, you reside in Nassau County.

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

Applicable Law and Regulations

Modified Adjusted Gross Income

Eligibility for the advance premium tax credit (APTC) is based on the taxpayer's modified adjusted gross income as defined in the federal tax code (45 CFR 155.300(a)).

“The term ‘modified adjusted gross income’ means adjusted gross income increased by -- (i) any amount excluded from gross income under section 911 [26 USCS § 911, Citizens or residents of the United States living abroad], (ii) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and (iii) an amount equal to the portion of the taxpayer's social security benefits (as defined in section 86(d) [26 USC § 86(d)]) which is not included in gross income under section 86 [26 USC § 86] for the taxable year”

(26 USC § 36B(d)(2)(B)).

Gross income includes a taxpayer's wages as well as income from other sources, such as unemployment benefits, alimony, taxable interest, capital gains and self-employment profits (26 USC § 61).

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 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)).

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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 APTC, (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)).

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 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 March 19, 2014).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you were not eligible for an advance premium tax credit (APTC) because your income was over the allowable limit.

Eligibility for APTC and cost-sharing reductions (CSR) is based on your expected annual income. During the hearing, you testified that the amount that is currently listed on your application of \$64,105.00 is correct. However, you contended that your expenses for rent, utilities, payments of debt, and other living expenses should be deducted from your annual household income. Since the Internal

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Revenue Service rules do not allow these expenses to be deducted from the calculation of your adjusted gross income (MAGI), they also cannot be deducted when the Marketplace computes your MAGI for APTC purposes. Therefore, the Marketplace's decision not to deduct these expenses when calculating your APTC was correct, and your MAGI based income for purposes of calculating your eligibility for APTC and CSR was \$64,105.00 in the determinations currently under review.

Your MAGI of \$64,105.00 places you at 557.92% of the 2013 FPL. The maximum income level for APTC eligibility for a one-person household is \$45,960.00 (400.00% FPL). Since you will earn more than the allowable maximum income level for this program in 2014, you are not eligible for APTC during 2014.

Additionally, the record reflects that your stated expected annual income for 2014 of \$64,150.00 did not include the amount of income you expect to earn from unemployment benefits in 2014. Typically, unemployment benefits are included in your expected earned income for MAGI purposes. However, since your 2014 earnings exceed the income limit for APTC, further analysis adding the unemployment benefits that would increase your expected 2014 income is not needed here.

The second issue under review is whether the Marketplace properly determined that you were not eligible for CSR because your income was over the allowable limit. CSR is available to a person who is eligible to receive APTC and has an annual household income that does not exceed 250% of the FPL. Since you are not eligible for APTC because your income exceeds the allowable limit and your income exceeds 250% of the FPL, you are not eligible for CSR.

However, at the hearing you testified that your household's 2014 expected annual household income no longer reflects your current income situation because you are no longer working. You indicated that you would like your eligibility for financial assistance to be reconsidered.

You testified and provided evidence that your August household income from unemployment benefits was \$1,215.00. This amount includes three separate payments of \$405.00 during August 2014.

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 previous eligibility by expected annual income, but not by monthly income, the case should be returned to the Marketplace for an eligibility determination based on monthly income.

Therefore, your case is returned to the Marketplace to redetermine your eligibility based on a one-person household in Nassau County with an August 2014 income of \$1,215.00.

Decision

The August 6, 2014, August 21, 2014, and September 3, 2014 eligibility determinations were correct and are AFFIRMED.

Your case is returned to the Marketplace to redetermine your eligibility based on a one-person household in Nassau County with an August 2014 income of \$1,215.00.

Effective Date of this Decision: December 31, 2014

How this Decision Affects Your Eligibility

You remain eligible to enroll in a Qualified Health Plan and you were not eligible to receive financial assistance as of the dates of the eligibility determinations under review.

However, your case is returned to the Marketplace to redetermine your eligibility based on a one-person household in Nassau County with an August 2014 income of \$1,215.00.

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)).

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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 6, 2014, August 21, 2014, and September 3, 2014 eligibility determinations are AFFIRMED.

Your case is returned to the Marketplace to redetermine your eligibility based on a one-person household in Nassau County with an August 2014 income of \$1,215.00.

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]