



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

Notice of Decision

Decision Date: December 26, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000915

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 6, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 3, 2014 eligibility determination.

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 letter.

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).

This page intentionally left blank.



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

Decision

Decision Date: December 26, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000915

[REDACTED]
[REDACTED]
[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that [REDACTED] were eligible for advance premium tax credit (APTC) in the amount of \$740.00 and cost-sharing reductions (CSR) as of September 2, 2014?

Did the Marketplace properly determine that [REDACTED] were ineligible for Medicaid as of September 2, 2014?

Procedural History

The Marketplace received your application for health insurance on September 2, 2014 and made a preliminary determination that you and your spouse are eligible to share an advance premium tax credit (APTC) of up to \$740.00 per month and eligible for cost-sharing reductions (CSR). It also indicated that your son may be eligible for health insurance through the Marketplace but that more information would be needed to make a determination.

On September 2, 2014, you spoke to the Marketplace's Account Review Unit and submitted an appeal request.

On September 3, 2014, the Marketplace issued two notices with regard to the application. The first stated that you and your spouse were eligible to enroll in a qualified health plan; to receive up to \$740.00 monthly of APTC; and, provided you are both enrolled in a silver level health plan, for CSR. The second, for your 19-year-old son, states: "The income information you provided does not match what New York State of Health obtained from State and Federal data sources.

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).

We will not be able to make an eligibility determination until you provide or the Marketplace is able to confirm additional information.”

On October 6, 2014, you appeared for your telephone hearing. Testimony was taken at the hearing. The record was held open until October 10, 2014 to allow you to submit additional documentation.

On October 7, 2014, you submitted Earning Statements for your spouse. The evidence was made part of the record, and the record was closed. The record is now complete and closed.

Findings of Fact

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

1. According to your Marketplace application, you are applying for health insurance for yourself, your spouse, and your 19-year-old son.
2. You testified that you plan on filing your 2014 federal income tax return with the tax status married filing jointly with your spouse and claiming one dependent, your son, on that tax return.
3. You testified that your son currently resides with you.
4. According to your September 2, 2014 Marketplace application, your expected 2014 household income is \$30,145.00. You expect earned income of \$10,385.00 in 2014 and your husband expects earned income of \$19,760.00 in 2014.
5. You testified that you were unemployed as of June 21, 2014.
6. You testified that you received your last paycheck on July 31, 2014.
7. You testified that you did not apply for Unemployment Insurance Benefits (UIB) and have not received any income since July 31, 2014.
8. According to your Marketplace application, your son has an expected 2014 yearly income of \$0.00.
9. On October 7, 2014, you submitted six 2014 earning statements for your spouse. Five show gross earnings of \$380.00 (check dates August 29, September 5, September 12, September 26, and October 3. One has gross earnings of \$399.00 (check date September 19).

10. You applied for health insurance through the Marketplace in September 2014.
11. According to your Marketplace application, you are not currently receiving Medicaid benefits.
12. You live in Chemung County, New York.

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 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 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 \$19,530.00 for a three-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 qualified health plan 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)).

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 level (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 \$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 must be 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 Department of Health and Human Services, March 19, 2014).

Legal Analysis

The first issue is whether the Marketplace properly determined that you and your spouse were eligible for an advance premium tax credit (APTC) of up to \$740.00 per month.

In the application that was submitted on September 2, 2104, you attested to an expected yearly income of \$30,145.00, and the eligibility determination relied upon that information.

According to the record, you expect to file as married filing jointly on your federal income tax return for 2014 and claim one dependent. Therefore you are in a three-person household.

You reside in Chemung County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$847.40 per month.

An annual household income of \$30,145.00 equals 154.35% of the 2013 federal poverty level (FPL) for a three-person household. At 154.35% of the FPL, the expected contribution to the cost of the health insurance premium is 4.20% of income, or \$105.51 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$845.62 per month) minus your expected contribution (\$105.51 per month), which equals \$740.11 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$740.00 per month.

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 154.35% of the FPL for purposes for APTC and cost-sharing reductions, 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 138.0% 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 \$30,145.00 is 152.32% 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 September 3, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$740.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is **AFFIRMED**.

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).

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation. Also, while a determination was made on your expected annual income, the record was not sufficiently developed to permit a determination to be made on the basis of your monthly income.

According to your September 2, 2014 Marketplace application, your expected 2014 household income is \$30,145.00. This was based on your expected earned income of \$10,385.00 in 2014 and your spouse's 2014 expected earned income of \$19,760.00.

However, you credibly testified that you were unemployed as of June 21, 2014 and received your last paycheck on July 31, 2014. You testified that you did not apply for Unemployment Insurance Benefits (UIB) and have not received any income since July 31, 2014.

Your September 2, 2014 application states that your son has an expected income of \$0.00 this year, but the Marketplace advised him in its September 3, 2014 notice that this information does not match data obtained from state and federal sources. No additional information has been submitted during the appeal process to resolve the discrepancy or explain your son's attested lack of income during 2014.

On October 7, 2014, you submitted six earnings statements for your spouse. They are dated August 29, September 5, September 12, September 26, and October 3. Three of the September checks are for gross earnings of \$380.00 and one is for gross earnings of \$399.00. Therefore, your spouse's earnings for September 2014 are \$1,539.00.

The record reflects that you applied for health insurance through the Marketplace only in September 2014.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. Since the record suggests that the Marketplace calculated September 2014 eligibility for yourself and your spouse 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 you and your spouse as members of a three-person household with a September 2014 income of \$1,539.00.

Decision

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).

The September 3, 2014 eligibility determination for yourself and your husband is **AFFIRMED**.

The case is returned to the Marketplace for redetermination of your and your spouse's eligibility as members of a three-person household in Chemung County, with a total income of \$1,539.00 for the month of September 2014.

Effective Date of this Decision: December 26, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, taking into account the additional information you provided during and after your hearing.

Currently, you remain eligible for an advance premium tax credit of up to \$740.00 per month.

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 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).

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 September 3, 2014 eligibility determination is **AFFIRMED**.

The case is returned to the Marketplace for redetermination of eligibility for you and your spouse as members of a three-person household in Chemung County, with an income of \$1,539.00 for the month of September 2014.

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, taking into account the additional information you provided during and after your hearing.

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]