



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: AP000000000931

[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 September 6, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: December 31, 2014

[REDACTED]
Appeal Identification Number: AP000000000931

Issues

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

Did the Marketplace properly determine that you were eligible for \$222.00 per month in advance premium tax credit as of August 28, 2014 and September 5, 2014, and that you were also eligible to receive cost-sharing reductions, provided you enrolled in a silver level health plan?

Did the Marketplace properly determine that you were not eligible for Medicaid as of August 28, 2014 and September 5, 2014?

Procedural History

The Marketplace initially received your application for health insurance on July 22, 2014. Notices were issued on July 23, 2014 and August 21, 2014 that stated you might be eligible for health insurance but that more information was needed to make a determination. The notices requested that you submit income documentation to the Marketplace.

On August 26, 2014 and on August 27, 2014, you uploaded copies of your paystubs to your Marketplace account.

On August 27, 2014, your eligibility for health insurance was redetermined based on the income information you provided. On August 28, 2014 an eligibility determination notice was issued. The notice stated that you were eligible to enroll in a qualified health plan, to receive up to \$222.00 per month in advance premium tax credit (APTC), and (if you enrolled in a silver level health plan) to receive cost-sharing reductions (CSR). The notice also stated that you were not

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eligible for Medicaid because your income of \$16,872.31 was over the allowable limit for that program.

On September 5, 2014, your eligibility for health insurance was again redetermined. A preliminary eligibility determination was prepared, which stated that you were eligible for up to \$222.00 per month in APTC, and eligible for CSR, provided you enrolled in a silver level health plan.

Also on September 5, 2014, you spoke with the Marketplace's Account Review Unit and appealed the August 28, 2014 eligibility determination and the September 5, 2014 preliminary determination.

On September 6, 2014, another eligibility determination notice was issued. That notice contained findings that were consistent with the August 28, 2014 eligibility determination notice, as well as the September 5, 2014 preliminary eligibility determination. It stated that you were eligible for up to \$222.00 in APTC per month, eligible for CSR, ineligible for Medicaid, and were granted a special enrollment period through September 29, 2014.

On September 25, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. After a call was placed to you, a friend requested that an Arabic interpreter be present on your behalf. Interpreter [REDACTED] was sworn in and brought into the hearing. The record was developed during the hearing and the record was left open for 15 days to allow you the opportunity to submit additional evidence. Shortly after the hearing, you faxed in the requested documentation. The record is now closed.

Findings of Fact

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

- 1) You testified that you plan on filing your 2014 federal income tax return as Single and that you will claim no dependents on that tax return.
- 2) You testified that you have worked for your current employer since 2012.
- 3) In your application of July 22, 2014 and revised application of August 20, 2014, you attested that your expected annual income for 2014 was \$12,480.00.
- 4) On August 27, 2014, you modified your application to attest to an expected 2014 income of \$16,872.31; you attested to the same amount in the September 5, 2014 application. You testified on September 25, 2014, and provided evidence, that this income amount is now incorrect, because you went from working 40 hours per week to 30 hours per week.

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- 5) You provided the paystubs you received for the month of August. On August 6, 2014, you received a check for the gross pay amount of \$255.00. On August 13, 2014, you received a check for the gross pay amount of \$255.00. On August 20, 2014, you received a check for \$356.32. On August 27, 2014, you received a check for \$255.00.
- 6) You testified that the only income you received in the month of August was from your job.
- 7) According to your Marketplace application, you reside in Erie County.

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 for the 2014 tax year is set by Federal law at 2% to 9.5% of annual household income (26 USC § 36B(b)(3)(A)).

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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

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 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 qualified health plan (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 (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 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 (APTC) of up to \$222.00 per month.

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In the applications that were submitted on August 27, 2014 and September 5, 2014, you attested to an expected yearly income of \$16,872.31, and the eligibility determination relied upon that information.

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

You reside in Erie County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$275.35 per month.

An annual income of \$16,872.31 is 146.84% of the 2013 FPL for a one-person household. At 146.84% of the FPL, the expected contribution to the cost of the health insurance premium is 3.81% of income, or \$53.57 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$275.35 per month) minus your expected contribution (\$53.57 per month), which equals \$221.78 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$222.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since an annual household income of \$16,872.31 is 146.84% 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% 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 \$16,872.31 is 144.58% 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 28, 2014 and September 6, 2014 eligibility determinations properly stated that, based on the information you provided, you were eligible for APTC of up to \$222.00 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 listed in your application no longer reflects your current income situation and that you would like your financial eligibility to be reconsidered.

You credibly testified and provided evidence that the only income you received during August 2014, the month during which your eligibility for health insurance

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was determined, consisted of four checks from your employer. You testified, and provided evidence, that you received three checks for \$255.00 and one check for \$356.32. Therefore, your income for August 2014 was \$1,121.32.

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 determined your August 28, 2014 and September 6, 2014 eligibility by considering expected annual income but not monthly income, the case should be returned to the Marketplace for a redetermination of eligibility for the month of August 2014.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a one-person household in Erie County, with an August 2014 income of \$1,121.32.

Decision

The August 28, 2014 and September 6, 2014 eligibility determinations are AFFIRMED.

However, this case is returned to the Marketplace to redetermine eligibility for a one-person household in Erie County, with an August 2014 income of \$1,121.32.

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 \$222.00 per month. You remain eligible for cost-sharing reductions provided 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 Erie County, with an August 2014 income of \$1,121.32.

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.

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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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 28, 2014 and September 6, 2014 eligibility determinations are **AFFIRMED**.

You remain eligible for \$222.00 per month in advance premium tax credits. You remain eligible for cost-sharing reductions provided you enroll in a silver level health plan.

This case is returned to the Marketplace to redetermine eligibility for a one-person household in Erie County, with an August 2014 income of \$1,121.32.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]