



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

Notice of Decision

Decision Date: January 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000933

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On September 26, 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).

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: January 14, 2015

NY State of Health Number: AC0002222143
Appeal Identification Number: AP000000000933

[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] was eligible for an advance premium tax credit (APTC) in the amount of \$152.00 and cost-sharing reductions as of September 5, 2014?

Did the Marketplace properly determine that [REDACTED] was eligible for Child Health Plus as of September 5, 2014?

Did the Marketplace properly determine that [REDACTED] were ineligible for Medicaid as of September 5, 2014?

Procedural History

On August 29, 2014, the Marketplace received your initial application for health insurance.

On August 30, 2014, the Marketplace issued two eligibility determination notices. The first notice states that [REDACTED] is eligible to enroll in a qualified health plan (QHP), receive up to \$143.00 monthly in advanced premium tax credit (APTC), and is eligible to get cost-sharing reductions (CSR). The notice also states that he is not eligible for Medicaid because the household income is over the allowable limit. The second notice states that [REDACTED] is eligible to enroll in Child Health Plus with the total monthly premium of \$9.00. It also states that he is not eligible for Medicaid because the household income is over the allowable income limit.

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).

On September 5, 2014, you reapplied for health insurance through the Marketplace on four different occasions. You also spoke to the Marketplace's Account Review Unit and filed an appeal.

On September 6, 2014, the Marketplace issued an eligibility determination notice that states [REDACTED] is eligible to enroll in a qualified health plan, receive up to \$152.00 monthly in APTC and eligible to get CSR. The notice also states that he is not eligible for Medicaid because the household income is over the allowable limit.

On September 19, 2014, and September 21, 2014, the Marketplace issued notices of eligibility determination. They stated that [REDACTED] is eligible to enroll in a qualified health plan, receive up to \$152.00 monthly in APTC and eligible to get CSR. The notice also states that he is not eligible for Medicaid because the household income is over the allowable limit.

On September 26, 2014, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was held open until September 29, 2014 to allow you to submit additional documentation.

On September 29, 2014, you submitted your Unemployment Insurance Benefits (UIB) payment history. The evidence was made part of the record as Appellant's Exhibit A, 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. You are applying for health insurance from yourself and your 18-year-old son.
2. You testified that you plan on filing a 2014 federal income tax return.
3. You testified that you plan on filing your tax return with the tax status of Head of Household and will claim two dependents on your 2014 federal income tax return.
4. According to your September 5, 2014 Marketplace Application, your 2014 annual household income is \$43,003.00. Your expected yearly income was based on \$29,849.00 in earned income and \$6,154.00 in unemployment insurance benefits. On it, your son also has an expected yearly income of \$7,000.00.

5. You testified that you were laid off from your job on August 22, 2014.
6. You testified that you applied for unemployment benefits on August 25, 2014 and were awarded a weekly benefit amount of \$405.00.
7. On September 29, 2014, you submitted your Unemployment Insurance Benefits payment history. It indicates that you collected \$405.00 on September 7, September 14, and September 21, 2014 (Appellant's Exhibit A). You testified that you anticipated receiving a similar payment on September 28, 2014.
8. You testified that your son has an expected 2014 yearly income of \$7,000.00.
9. You testified that your former spouse has an expected 2014 yearly income of \$0.00. You also testified that she resides with you and your son and that you expect to claim her as a dependent on your 2014 federal income tax return.
10. You currently reside in Herkimer 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 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 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

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).

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 that is at least 200% but less than 250% of the 2013 FPL, the expected contribution is between 6.30% and 8.05% 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 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 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)).

Child Health Plus

A child may be eligible for coverage through Child Health Plus (CHP) provided (1) he or she lives in a household having a household income at or below 400% of the FPL and (2) is not eligible for medical assistance (Medicaid), except that a child who becomes eligible for Medicaid after becoming eligible for CHP, may be eligible for a subsidy payment for a period of three months after becoming eligible for such medical assistance (NY Public Health Law § 2511(2)(b) and (3)).

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the FPL (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

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 CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL (PHL § 2510(9)(d)(ii)).

Additionally, an individual is eligible for enrollment in Medicaid when he or she meets the nonfinancial criteria and has a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)).

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)).

Medicaid is currently available to children who are at least one year of age but under the age of nineteen who have a modified adjusted gross income at or below 154% of the FPL of the applicable family size (see 42 CFR § 435.118(c); NY Department of Health Administrative Directive 13ADM-03).

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

According to the record, you have a three-person tax household. You expect to file your 2014 federal income tax return with the tax status of Head of Household and claim two dependents.

You reside in Herkimer County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$403.04 per month.

A three-person household may qualify for APTC if the annual household income is between \$26,952.00 (138% 2013 FPL) and \$78,120.00 (400% 2013 FPL).

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 6, 2014 eligibility determination was based on an annual household income of \$43,003.00, which was the amount you entered as your total household's expected annual income for 2014.

An annual household income of \$43,003.00 equals 220.19% of the 2013 FPL for a three-person household. At 220.19% of the FPL, the expected contribution to the cost of the health insurance premium is 7.00% of income, or \$250.85 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$403.04 per month) minus your expected contribution (\$250.85 per month), which equals \$152.19 per month. Therefore, the Marketplace correctly computed your APTC to be \$152.00 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 220.19% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

A CHP premium payment is required for an eligible child whose family household income is at least 160% of the FPL. The premium is \$9.00 for a family with a household income between 160% and 222% of the FPL. Since your income falls within that range, the Marketplace was correct when it determined that your son's CHP premium would be \$9.00 per month.

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 \$43,003.00 is 217.30% 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 6, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$152.00 per month, eligible for cost-sharing reductions, that your son was eligible for CHP with a \$9.00 monthly premium and that you and your son were not eligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation.

You testified that you were laid off from your job on August 22, 2014. You testified that you applied for unemployment insurance benefits on August 25, 2014 and were awarded a weekly benefit amount of \$405.00. On September 29, 2014, you submitted your unemployment insurance benefits payment history. It indicates that you collected \$405.00 on September 7, September 14, and September 21, 2014 (Appellant Exhibit A). You testified that you also anticipated collecting \$405.00 on September 28, 2014.

Additionally, you testified that your 18-year-old son has an expected 2014 yearly income of \$7,000.00 and that your ex-spouse has an expected 2014 yearly income of \$0.00.

Based on the documents submitted and credible testimony, you received four payments of \$405.00 in September 2014. Furthermore, you credibly testified that your son's expected 2014 yearly income is \$7,000.00 ($\583.33×12) and ex-spouse's expected 2014 yearly income is \$0.00. Therefore, your monthly household income for September 2014 was \$2,203.33.

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 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 \$2,203.33 for the month of September 2014.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a three-person household with a September 2014 household income of \$2,203.33 for [REDACTED].

Decision

The September 6, 2014 eligibility determination is AFFIRMED.

The case is returned to the Marketplace for redetermination of [REDACTED] [REDACTED] eligibility for a household of three with a total household income of \$2,203.33 for the month of September 2014.

Effective Date of this Decision: January 14, 2015

How this Decision Affects Your Eligibility

Your case has been returned to the Marketplace for a redetermination to recalculate [REDACTED] eligibility based on a September 2014 monthly income of \$2,203.33.

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.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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.

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

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).

Summary

The September 6, 2014 eligibility determination is AFFIRMED.

The case is returned to the Marketplace for redetermination of [REDACTED] eligibility for a household of three with a total household income of \$2,203.33 for the month of September 2014.

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your eligibility, taking into account the additional information you provided during and after your hearing. The Marketplace will issue another notice after it redetermines your eligibility.

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]