



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: AP000000000934

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 7, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s September 6, 2014 eligibility determination.

The attached 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 the 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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[REDACTED]
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Issue

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

Did the Marketplace properly determine that [REDACTED] was ineligible for advance premium tax credit, cost-sharing reductions, and Medicaid, as of September 6, 2014?

Procedural History

The Marketplace received your initial application for health insurance, with financial assistance, on August 30, 2014.

That same day, the Marketplace prepared a preliminary eligibility determination based on your August 30, 2014 application. It simply found you eligible to enroll in a qualified health plan. Later that same day, you modified your application to one that did not request financial assistance, which did not change your eligibility.

On September 5, 2014, you modified your application.

That same day, the Marketplace prepared a preliminary eligibility determination based on your September 5, 2014 application, the findings of which were the same as those in the August 30, 2014 preliminary determination.

On September 5, 2014, you spoke with the Marketplace's Account Review unit and appealed the September 5, 2014 eligibility determination.

On September 6, 2014, the Marketplace issued a notice of eligibility redetermination, which simply found you eligible to enroll in a qualified health plan through the Marketplace.

On October 7, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: (1) your last paystub received from your former employer, [REDACTED] on or about July 11, 2014; (2) a letter from [REDACTED] showing your employment was terminated as of June 13, 2014; and (3) a copy of your Unemployment Insurance Official Record of Benefit Payment History reflecting benefits received during August and September of 2014. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On October 8, 2014, you provided the above referenced documents to the Appeals Unit through your Marketplace online account. As a result, the record was closed on October 8, 2014.

Findings of Fact

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

- 1) You are unmarried and have no children.
- 2) You expect to file a U.S. Income Tax return for 2014, file as "single" and claim no dependents.
- 3) You are seeking health insurance through the Marketplace for just yourself.
- 4) You reside in New York County, New York.
- 5) In your September 5, 2014 application, you attested to an expected yearly income of \$56,480.00, which included: (1) \$50,000.00 in earned income from FAI; and (2) \$6,480.00 in unemployment benefits.
- 6) You testified that you were employed by [REDACTED] during 2014 until your position was eliminated on June 13, 2014.
- 7) The actual income you received from [REDACTED] as reflected in your final paystub on July 11, 2014, was \$71,541.36.
- 8) On August 25, 2014, you filed a claim for unemployment benefits relating to your position with [REDACTED].

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- 9) You testified that you were delayed in filing your claim since you received a severance payment from [REDACTED]. You further testified that once your claim was processed on or about August 25, 2014, you were awarded unemployment benefits in the amount of \$405.00 per week. You began receiving such benefits on September 15, 2014.
- 10) You received three unemployment benefit payments of \$405.00 in September 2014.
- 11) During the month of your initial application, August 2014, your income was \$0.00.
- 12) During the month of your modified application, September 2014, your income was \$1,215.00.

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), 435.911(b)(1), 435.603(d)(4)).

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 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% 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)).

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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 FPL for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

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).

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).

Legal Analysis

The only matters at issue are whether: (1) you were eligible for advance premium tax credit (APTC), (2) you were eligible for cost-sharing reductions, and (3) you were eligible for Medicaid, in each case as of September 6, 2014.

According to the information you provided to the Marketplace in your September 5, 2014 application, your expected annual household income was \$56,480.00, which included (1) \$50,000.00 in earned income from FAI; and (2) \$6,480.00 in unemployment benefits. The eligibility determination relied on that information.

According to the record, you expect to file as “single” on your tax return for 2014 and claim no dependents. Therefore, you are in a one-person household.

An income of \$56,480.00 would place you at 491.56% of the FPL. The income limit for APTC is 400.00% of the FPL and the limit for cost-sharing reductions is 250% of the FPL. Since your income, as stated in your September 5, 2014 application, was greater than the allowable maximum for these programs, you were correctly found ineligible for APTC and 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

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applicable family size. On the date of your application, September 5, 2014, the relevant FPL was \$11,670.00 for a one-person household. Since \$56,480.00 is 491.56% 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.

You testified during the hearing, and then provided evidence to the Appeals Unit after the hearing, that your income of \$56,480.00, as attested within your application, was based on inaccurate information. According to the record now available to the Marketplace, in addition to your expected receipt of \$6,480.00 in unemployment benefits during 2014, the last paystub you received from ██████ reflects a gross income amount of \$71,541.36, not \$50,000.00. Thus according to the record as currently developed, a more accurate expected income for 2014 is \$78,021.36.

However, this increase in your expected income for 2014 will not result in a change of your eligibility other than what has been determined in your September 6, 2014 notice of eligibility determination. Since the Marketplace properly determined that you were ineligible for APTC, CSR and Medicaid as of that date, the September 6, 2014 eligibility determination is correct and is AFFIRMED.

However, you also testified at that the hearing that your 2014 expected annual household income no longer reflects your current income situation and that you would like your financial eligibility to be reconsidered.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

The credible evidence of record indicates that your employment at ██████ ended on June 13, 2014, and that your August 2014 and September 2014 income was \$0.00 and \$1,215.00, respectively.

Since the record suggests that the Marketplace determined your eligibility by expected annual income but not by current monthly income, your case should be returned to the Marketplace for a redetermination of financial eligibility using an income of \$0.00 for the month of August 2014 and, if necessary, an income of \$1,215.00 for the month of September 2014.

Therefore, the case is RETURNED to the Marketplace for redetermination of eligibility based on a one-person household in New York County, with an August 2014 income of \$0.00 and a September 2014 income of \$1,215.00.

Decision

The September 6, 2014 eligibility determination is AFFIRMED.

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The case is returned to the Marketplace for a redetermination of eligibility, using a one-person household in New York County with an August 2014 income of \$0.00 and September 2014 income of \$1,215.00.

Effective Date of this Decision: January 14, 2015

How this Decision Affects Your Eligibility

As of September 6, 2014 you were not eligible to receive advance premium tax credit, cost-sharing reductions, or Medicaid.

Your case is being returned to the Marketplace for redetermination based on a one-person household in New York County with an August 2014 income of \$0.00 and September 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.

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:

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- By fax: 1-855-900-5557

Summary

The September 6, 2014 eligibility determination is AFFIRMED.

As of September 6, 2014 you were not eligible to receive advance premium tax credit, cost-sharing reductions, or Medicaid.

Your case is being returned to the Marketplace for redetermination based on a one-person household in New York County with an August 2014 income of \$0.00 and September 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]
[REDACTED]