



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

Notice of Decision

Decision Date: December 29, 2014

[REDACTED]
Appeal Identification Number: AP000000000935

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

On September 30, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 4, 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).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 29, 2014

[REDACTED]
Appeal Identification Number: AP000000000935

Issue

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

Did the Marketplace properly determine that [REDACTED] was eligible to enroll in a full-pay qualified health plan without financial assistance as of September 3, 2014?

Did the Marketplace properly determine that [REDACTED] was not eligible for Medicaid as of September 3, 2014?

Procedural History

The Marketplace received your application for health insurance on September 3, 2014.

That same day, the Marketplace made a preliminary determination that you were eligible to enroll in a full-pay qualified health plan without financial assistance.

On September 4, 2014, the Marketplace issued a notice consistent with the preliminary eligibility determination; it stated that you were eligible to enroll in a qualified health plan without a subsidy because you were already enrolled in or were eligible for employer-sponsored insurance. The notice also stated that you were not eligible for Medicaid because the household income you provided of \$17,300.00 was over the allowable income limit of \$16,105.00.

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

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On September 30, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was left open for up to 15 days to allow you time to submit supporting documentation. On October 1, 2014, the Marketplace's Appeals Unit received supporting income documentation in the form of 5 paystubs from your previous employment, which was marked collectively as Appellant's Exhibit A and made part of the record. The record was closed on October 15, 2014.

Findings of Fact

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

- 1) You testified that you plan on filing your 2014 tax return as single and will claim no dependents on that tax return.
- 2) You testified that your last day of employment was August 23, 2014.
- 3) According to your August 28, 2014 application, you attested to a household income of \$17,300.00. You testified that this is the amount you earned through your employment from January 1, 2014 until August 23, 2014, when you were injured.
- 4) You testified that you have not applied for unemployment benefits because you applied for temporary disability benefits. You were subsequently denied temporary disability benefits.
- 5) You testified that you received your final check from your employer in September 2014 for approximately \$342.00. This is the only income you received in September.
- 6) You testified that due to your injury and subsequent surgery, you are unable to work for the rest of the 2014 tax year. You do not expect to have any income for October, November, or December 2014.
- 7) According to your Marketplace application, you reside in Franklin County, New York.
- 8) On October 1, 2014, the Marketplace's Appeals Unit received supporting income documentation in the form of 2014 pay stubs dated August 12, August 21, August 27, September 3, and September 5 (Appellant's Exhibit A).

- 9) According to the paystub dated September 3, 2014, you earned \$350.00 before taxes were deducted. According to the September 5, 2014 pay stub, you earned \$225.00 before taxes were deducted.

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)).

To be eligible to claim APTC, a taxpayer must meet the eligibility requirements to enroll in a qualified health plan and not be eligible for minimum essential coverage, except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR § 1.36B-2).

Minimum Essential Coverage

Generally, an individual will be treated as eligible for minimum essential coverage if the individual may enroll in an eligible employer-sponsored plan that is affordable and provides minimum value (26 CFR §§ 1.36B-2(c)(3)(v)(A) & (C)). A person who has an employer-sponsored health insurance plan that provides minimum essential coverage is not entitled to APTC (26 CFR § 1.36B-2(c)(1)).

“Minimum essential coverage” is defined in section 5000A(f) of the Internal Revenue Code and the regulations issued under that section. As described in that section, eligible employer-sponsored plans are considered minimum essential coverage (26 CFR § 1.36B-2(c)(1)).

Medicaid

To qualify for Medicaid a person must meet the nonfinancial criteria and have 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)).

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

According to the record, you are the only member of your tax household. You expect to file as single on your tax return for 2014 and to claim no dependents.

Also according to the record, you are currently covered under an employer-sponsored health plan held by [REDACTED]. The Marketplace correctly determined that you were not eligible to receive financial assistance toward a qualified health plan because you are already enrolled in another health plan.

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

You credibly testified that you sustained an injury on August 23, 2014 and have been unable to work since then. You provided evidence that in the month of September 2014, the month during which you submitted your application, that you received two residual income payments from your employer. The payment dated September 3, 2014 indicates gross earnings of \$350.00, and the second check dated September 5, 2014 indicates gross earnings of \$225.00. Therefore, your income for September 2014 was \$575.00.

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 your

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August 19, 2014 eligibility 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 a one-person household with a September 2014 income of \$575.00.

Decision

The September 4, 2014 eligibility determination is AFFIRMED.

This case is also returned to the Marketplace to redetermine eligibility for a one-person household with September 2014 income of \$575.00.

Effective Date of this Decision: December 29, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible to enroll in a full-pay qualified health plan without financial assistance.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and a September 2014 income of \$575.00.

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

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- 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:
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- By fax: 1-855-900-5557

Summary

The September 4, 2014 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

You remain eligible to enroll in a full-pay qualified health plan without financial assistance.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and a September 2014 income of \$575.00.

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]