



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

Notice of Decision

Decision Date: January 13, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000939

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

Dear [REDACTED],

On October 9, 2014, you both appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 9, 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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Issue

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

Did the Marketplace properly determine that you and your spouse were eligible to receive an advance premium tax credit of up to \$397.00 per month and, if you enroll in a silver-level qualified health plan, for cost-sharing reductions as of September 8, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of September 8, 2014?

Procedural History

The Marketplace initially received your application on August 7, 2014. The application was modified on September 2 and 8, 2014.

On September 8, 2014, the Marketplace prepared a preliminary eligibility determination. It found you were both eligible to share in an advance premium tax credit (APTC) of up to \$397.00 per month and for cost-sharing reductions (CSR).

On September 8, 2014, you spoke with the Marketplace's Account Review Unit and appealed that determination.

On September 9, 2014, the Marketplace issued a notice of eligibility determination on your September 8, 2014 application. It states that you are

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eligible to share an APTC of up to \$397.00 per month and to receive CSR if you select a silver level qualified health plan but ineligible for Medicaid.

The Marketplace sent you a Notice of Telephone Hearing on September 16, 2014 for a scheduled telephone hearing on October 2, 2014.

On October 2, 2014, a Hearing Officer attempted to contact you at the primary telephone number you had provided, but got a busy signal each time. Later, the Hearing Officer learned that you had provided an alternate number. The Appeals Unit contacted you at the alternate number on October 3, 2014. You agreed to reschedule the hearing for October 9, 2014 at 2:30 p.m. and to waive formal notice of hearing at that time.

On October 9, 2014, you both had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit and agreed to waive formal notice of hearing through sworn testimony. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You are married to each other and live in Monroe County.
- 2) You plan on filing your 2014 federal income tax return as married filing jointly.
- 3) █████ employment was terminated as of June 27, 2014. Her year-to-date earnings were \$27,238.36 (Appellants' Exhibit A at pp. 2, 4).
- 4) █████ testified that she was receiving short-term disability benefits through █████ for three months, until August 27, 2014, and was paid \$291.00 weekly.
- 5) █████ testified that she also had short-term disability insurance through State Insurance Fund. She further testified that State Insurance Fund sent her a check, dated September 8, 2014, for retroactive disability benefits in the amount of \$2,000.00.
- 6) █████ testified that her income for October 2014 is \$0.00.
- 7) █████ submitted a written statement that he has not worked since at least 2009 (Appellants' Exhibit A at p.7).

- 8) ██████ testified and provided a written statement that said he started a business in August 2014, secured a state tax identification certificate, and earned \$280.00 the first quarter, which income was exceeded by business expenses incurred (Appellant's Exhibit A at p.7).
- 9) ██████ testified his business income from his new business for October 2014 will be used to offset expenses and he will have no other source of income.
- 10) You both testified that you received a telephone call on October 2, 2014, from your local Department of Social Services, were told you were both approved for "full services," and you chose Blue Option for health, dental and vision insurance coverage. You also testified that you were told that you can use your current benefit cards for these services.
- 11) ██████ testified she has been denied long-term disability because her condition is preexisting.
- 12) ██████ testified she was denied Social Security Disability Benefits, has appealed the denial, and is waiting for a hearing to be scheduled.
- 13) You both testified that you want help paying for medical bills.

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)).

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 2013 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 \$15,510.00 for a two-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 QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have a 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 QHP (45 CFR § 155.305(g)(1)).

A household of two people is eligible for CSR if the household's income is from 138% to 250% of the FPL, which is from \$21,404.00 (138%) up to \$38,775.00 (250%).

Medicaid

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)).

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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 \$15,730.00 for a two-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, your tax household consists of you and your spouse. You expect to file your 2014 federal income tax return as married filing jointly and to claim no dependents. Therefore, you are in a two-person household for purposes of this analysis.

You reside in Monroe County, where the lowest cost silver plan that is available through the Marketplace for a couple costs \$541.37 per month.

In the application that was submitted on September 8, 2014, you attested to an expected yearly income of \$29,566.36, and the eligibility determination relied upon that information.

An annual household of \$29,566.36 equals 190.63% of the 2013 federal poverty level (FPL) for a two-person household. At 190.63% of the FPL, the expected contribution to the cost of the health insurance premium is 5.87% of income, or \$144.60 per month.

The maximum amount of advance premium tax credits that can be authorized equals the cost of the second lowest cost silver plan in your county (\$541.37) minus your expected contribution (\$144.60 per month), which equals \$396.77 per month. Therefore, the Marketplace correctly computed your advance premium tax credit, rounded to the nearest dollar, to be \$397.00 per month on an expected-income basis.

Cost-sharing reductions are available to a married couple with a household income no greater than 250% of the 2013 FPL. Since your household income is 190.63% of the FPL, the Marketplace correctly determined that you are eligible for cost-sharing reductions provided you are enrolled in a silver level qualified health plan.

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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 \$15,730.00 for a two-person household. Since \$29,566.36 is 187.96% 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 9, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$397.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

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

█████ credibly testified to having no income during October 2014, the month in which your hearing was held, and ██████ credibly testified that his business income will be used to pay business expenses and that he will not earn anything. Therefore, your income for the month of October 2014 is \$0.00.

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 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 \$0.00 for the month of October 2014.

Therefore, the case is returned to the Marketplace to redetermine eligibility for financial assistance based on a two-person household with an October 2014 income of \$0.00.

If you have obtained Medicaid coverage through your local social services office, you cannot obtain duplicate Medicaid coverage through the Marketplace.

Decision

The September 9, 2014 eligibility determination is AFFIRMED.

This case is returned to the Marketplace to redetermine eligibility for a two-person household with an October 2014 income of \$0.00.

This decision is based solely on your appeal from the Marketplace's September 9, 2014 eligibility redetermination. It does not have any effect on decisions or

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determinations that have been made by your local Department of Social Services.

Effective Date of this Decision: January 13, 2015

How this Decision Affects Your Eligibility

Together, you remain eligible for an advance premium tax credit of up to \$397.00 per month and for cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a two-person household and an October 2014 income of \$0.00.

This decision is based solely on your appeal from the Marketplace's September 9, 2014 eligibility redetermination. It does not have any effect on decisions or determinations made by your local Department of Social Services. If you have obtained Medicaid coverage through your local social services office, you cannot obtain duplicate Medicaid coverage through the Marketplace.

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.

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

Summary

The September 9, 2014 eligibility determination, as made on September 8, 2014, is AFFIRMED.

Together, you remain eligible for an advance premium tax credit of up to \$397.00 per month and for cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a two-person household and an October 2014 income of \$0.00.

This decision is based solely on your appeal from the Marketplace's September 9, 2014 eligibility redetermination. It does not have any effect on decisions or determinations made by your local Department of Social Services.

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]