



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: AP000000000940

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

Dear [REDACTED],

On October 1, 2014, you both 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 the 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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Issue

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

Did the Marketplace properly determine that you both were eligible to share an advance premium tax credit of up to \$370.00 per month as of September 3, 2014?

Did the marketplace properly determine that you both were not eligible for cost-sharing reductions or Medicaid as of September 3, 2014?

Procedural History

The Marketplace received your application on September 3, 2014.

On September 3, 2014, the Marketplace prepared a preliminary eligibility determination in your case. It found that you both were eligible to share an advance premium tax credit of up to \$370.00 monthly and were not eligible for cost-sharing reductions or Medicaid because your reported household income of \$38,775.00 was over the allowable income limits for these programs.

On September 4, 2014, the Marketplace issued an eligibility determination notice that was consistent with the September 3, 2014 preliminary eligibility determination.

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

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On October 1, 2014, you both 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 a 4-page fax from you. It consisted of (1) a September 19, 2014 notice from Indiana UC Service Center; (2) the online unemployment compensation claim status information from Pennsylvania Department of Labor and Industry; (3) your last pay stubs; (4) a benefit payment information showing benefits paid in the amount of \$472.00 on September 9, 2014 by the Pennsylvania Department of Labor and Industry. These documents were marked collectively as "Appellants' Exhibit A" and made part of the record. The record was closed that same day.

Findings of Fact

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

- 1) Both of you reside in Allegany County.
- 2) You have no dependents and plan on filing your 2014 federal income tax return as married filing jointly.
- 3) ██████████ testified that you both stopped working for the same employer on August 31, 2014 and were notified by telephone that your health insurance benefits ended on September 1, 2014.
- 4) According to your Marketplace application, ██████████ expected to receive \$5,490.00 in unemployment benefits earlier this year.
- 5) ██████████ testified that ██████████ did receive \$492.00 in unemployment benefits in September 2014, for the one week that he had left but that the Department of Labor is requiring that it be returned (Appellants' Exhibit A at pp.1 and 4).
- 6) ██████████ testified and provided documentary proof that ██████████ applied for unemployment benefits and was denied; this denial is currently under appeal (Appellants' Exhibit A at p.1).
- 7) ██████████ testified that she cannot apply for unemployment benefits until October 5, 2014, because she did not have enough earnings in the preceding quarters.
- 8) The record contains paystubs for ██████████ for the pay period from August 24, 2014 to August 30, 2014. The pay date for both is

September 4, 2014. ██████ had gross wages of \$1,921.50 for the pay period and \$32,937.75 for the year to date. ██████ had gross wages of \$500.00 for the pay period and \$8,652.48 for the year to date (Appellants' Exhibit A at p.3).

- 9) ██████ testified that the household income for October 2014 is zero and that you are both relying on family for financial support.

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; (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

- 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 250% but less than 300% of the 2013 FPL, the expected contribution is between 8.05% and 9.50% 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 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 QHP (45 CFR § 155.305(g)(1)).

Medicaid

An individual is eligible for enrollment in Medicaid when 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 federal poverty 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 \$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 may 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 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 as married filing jointly on your federal income tax return for 2014 and to claim no dependents

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You reside in Allegany County, where the lowest cost silver plan that is available through the Marketplace for a couple costs \$710.02 per month.

In the application that was submitted on September 3, 2014, you attested to an expected yearly income of \$44,685.73, and the eligibility determination relied upon that information.

An annual household of \$44,658.73 equals 287.94% of the 2013 federal poverty level (FPL) for a one-person household. At 287.94% of the FPL, the expected contribution to the cost of the health insurance premium is 9.15% of income, or \$340.52 per month.

The maximum amount of advance premium tax credit (APTC) that can be authorized equals the cost of the second lowest cost silver plan in your county (\$710.02) minus your expected contribution (\$340.52 per month), which equals \$369.48 per month. Therefore, the Marketplace correctly computed your APTC, rounded to the nearest dollar, to be \$370.00 per month on an expected-income basis.

Cost-sharing reductions are available to those who have a household income no greater than 250% of the FPL. Since a household income of \$44,685.73 is 287.94% of the 2013 FPL, the Marketplace correctly found you to be ineligible for cost-sharing reductions on your attested income.

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 the 2014 FPL of \$15,730.00 for a two-person household. Since \$44,685.73 is 284.08% 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.

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

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. On a monthly basis, 138.0% of the 2014 FPL equals \$1,809.00 per month. During September 2014, [REDACTED] had gross wages of \$1,921.50 and [REDACTED] had gross wages of \$500.00, giving you a household income of \$2,421.50 for the month. Since your monthly income of \$2,421.50 is greater than the maximum allowable monthly income of \$1,809.00, your September 2014 income does not qualify you for Medicaid coverage.

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Therefore, the September 4, 2014 determination, finding you both ineligible for Medicaid as of September 3, 2014 is AFFIRMED.

Decision

The September 4, 2014 eligibility redetermination is AFFIRMED.

This decision does not affect any determinations made by the Marketplace after September 4, 2014.

Any determinations made after September 4, 2014 remain in effect.

Effective Date of this Decision: December 29, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You were not eligible for Medicaid on September 3, 2014, but any determinations made after September 4, 2014 remain in effect.

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

- 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 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).

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 September 4, 2014 eligibility redetermination is **AFFIRMED**.

You were not eligible for Medicaid on September 3, 2014, but any determinations made after September 4, 2014 remain in effect.

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]