



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

Notice of Decision

Decision Date: January 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000964

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 6, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 10, 2014 eligibility redetermination.

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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Issue

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

Did the Marketplace properly determine that you are eligible to receive an advance premium tax credit of up to \$151.00 per month and, if you select a silver-level qualified health plan, for cost-sharing reductions, as of September 9, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of September 9, 2014?

Procedural History

The Marketplace received your application on May 22, 2014, which was updated on June 19, 2014, September 9, 2014, and September 10, 2014.

Based on your September 9, 2014 updated application, the Marketplace prepared a preliminary determination. It determined that you are eligible to receive an advance premium tax credit of up to \$151.00 per month, and, if you select a silver-level qualified health plan, for cost-sharing reductions. It also found you are not eligible for Medicaid because the household income you provided of \$35,736.00 is over the allowable income limit of \$21,707.00.

That same day, you spoke with a representative in the Marketplace's Account Review Unit and appealed that determination.

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On September 10, 2014, the Marketplace issued a notice of eligibility determination that was consistent with the September 9, 2014 preliminary eligibility determination. The notice also informed you that you that the Marketplace needed more income information from you and gave you a list of documents that you could submit as proof of income.

On September 11, 2014, after your application was again modified, the Marketplace issued another notice of eligibility determination. It said that you were eligible to receive an advance premium tax credit of up to \$325.00 per month and were temporarily eligible to receive cost-sharing reductions. It also said you were not eligible for Medicaid because your reported annual income of \$16,106.00 was over the allowable income limit of \$16,105.00. The notice also informed you that you needed to provide documentary proof of your income so that your eligibility determination could be finalized.

That same day, the Marketplace issued a letter confirming that you had selected a silver-level health plan with United HealthCare Silver HMO.

On October 6, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to 15 days to allow you the opportunity to submit your benefits letter from the Social Security Administration. The record was to be closed on October 21, 2014 or upon receipt of documentation, whichever occurred earlier.

As of October 22, 2014, the Marketplace's Appeals Unit had not received any documents from you, nor were any documents uploaded to and viewable in your Marketplace online account. Therefore, the record was closed that morning.

This decision is based on the evidence in the record as of October 6, 2014 hearing.

Findings of Fact

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

- 1) You are widowed and live in Kings County, New York.
- 2) You testified that you stopped working during February 2013, when the business you worked for closed.
- 3) You testified your son is ill and has moved back in with you so you can help him out.
- 4) You testified that you updated your Marketplace online application on September 9, 2014 with the help of the Marketplace's Customer Service,

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because your unemployment insurance benefits that began in February 2014 were exhausted after 26 weeks and an extension of those benefits had not been granted.

- 5) According to your Marketplace application of September 9, 2014, your tax filing status was listed as Head of Household with a Qualifying Individual. Your son was named as a dependent.
- 6) According to your Marketplace application of that date, your household income consisted of your income of \$24,558.00 and your son's income of \$11,178.00. Your income comprised \$10,530 in unemployment insurance benefits (26 weeks x \$405 per week before taxes) and \$14,028.00 in Title II benefits (12 months times \$1,162.00 per week). Your son's income included \$11,000.00 in earned income and \$178.00 in unemployment benefits (\$89 per week x 2 weeks).
- 7) On September 10, 2014, your Marketplace application was updated again with the help of the Marketplace's Customer Service. It was changed to reflect that your income tax filing status is single and your household income is Title II income of \$16,106.00. You testified that you reported this amount based on the application question about annual income because the Title II income was your only source of income as of September 2014.
- 8) On September 11, 2014, the Marketplace issued a notice of eligibility redetermination based on this updated information and found you eligible to receive up to \$325.00 per month of advance premium tax credits and temporarily eligible for cost sharing reductions.
- 9) You testified that you received a Statement of Benefits letter for the annual and monthly amount of Title II benefits to which you are entitled. You agreed to fax this to the Marketplace's Appeals Unit, but had not done so as of October 22, 2014.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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)).

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 are available only to a person who (1) is eligible to enroll in a qualified health plan through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have a 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 qualified health plan (45 CFR § 155.305(g)(1)).

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 FPL for the applicable family size (42 CFR §§ 435.119(b), 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 \$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

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$151.00 per month as of September 9, 2014.

In the application that was submitted on September 9, 2014, you attested to an expected yearly income of \$35,376.00, and the eligibility determination relied upon that information.

According to your application your tax filing status was Head of Household with a Qualifying Individual, your dependent son. Therefore you had a two person tax household consisting of you and your dependent son.

You reside in Kings County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$370.53 per month.

An annual income of \$35,736.00 is 230.41% of the 2013 federal poverty level (FPL) for a two-person household. At 230.41% of the FPL, the expected contribution to the cost of the health insurance premium is 7.36% of income, or \$219.18 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$370.53 per month) minus your expected contribution (\$219.18 per month), which equals \$151.35 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$151.00 per month as of September 9, 2014.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$35,736 is 230.41% of the 2013 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions as of September 9, 2014.

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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 \$21,707.00 for a two-person household. Since \$35,736.00 is 164.62% 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 September 9, 2014 application.

Also at issue is whether the Marketplace properly determined that you were eligible for APTC of up to \$325.00 per month as of September 11, 2014.

In an updated application that you submitted on September 10, 2014, you attested to an expected yearly income of \$16,106.00, and the eligibility determination relied upon that information.

According to this updated application you are the only person in your tax household.

You reside in Kings County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$370.53 per month.

An annual income of \$16,106.00 is 140.17% of the 2013 FPL for a one-person household. At 140.17% of the FPL, the expected contribution to the cost of the health insurance premium is 3.42% of income, or \$45.88 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$370.53 per month) minus your expected contribution (\$45.88 per month), which equals \$324.65 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$325.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$16,106.00 is 140.17% of the 2013 FPL, the Marketplace correctly found you to be eligible for 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 138.0% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,670.00 for a one-person household. Since \$16,106.00 is 138.01% 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.

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Since the September 10, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$151.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

Since the September 11, 2104, determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$325.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is also correct and is AFFIRMED.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. To be eligible for Medicaid, you must meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,343 per month.

You testified that the only income you received during September 2014 was Title II income. At your hearing you were requested to supply income documentation for the month of September 2014 and the record was left open until October 22, 2014 to allow you to submit documentation. As of October 22, 2014 no supporting documentation was provided. Therefore, the record lacks sufficient evidence to make a redetermination based on monthly income for September 2014.

Decision

The September 10, 2014 and the September 11, 2014 eligibility redeterminations, are AFFIRMED.

Effective Date of this Decision: January 15, 2015

How this Decision Affects Your Eligibility

This decision has no effect on eligibility determinations that may have been issued after September 11, 2014.

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

Summary

The September 10, 2014 and the September 11, 2014 eligibility redeterminations are AFFIRMED.

This decision has no effect on eligibility determinations that may have been issued after September 11, 2014.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]