



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: AP000000000966

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

Dear [REDACTED],

On October 1, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 10, 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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[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Issues

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

Did the Marketplace properly determine that you were eligible for advanced premium tax credit in the amount of \$263.00 and cost-sharing reductions as of September 9, 2014?

Did the Marketplace properly determine that you were ineligible for Medicaid as of September 9, 2014?

Procedural History

On October 30, 2013, the Marketplace received your application and made a preliminary determination that, with an annual household income of \$29,800.00, you are eligible for advance premium tax credit up to \$164.00 monthly.

On December 23, 2013 and March 27, 2014, the Marketplace issued notices of eligibility redetermination consistent with the October 30, 2014 preliminary determination. They stated that you remain eligible to enroll in a qualified health plan with up to \$164.00 monthly of advance premium tax credit. They also stated that you were not eligible for Medicaid because your household income was over the allowable limit.

On September 9, 2014, you submitted two modified applications to the Marketplace. The final preliminary determination of the day stated that, with an

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annual household income of \$21,912.00, you are eligible for advance premium tax credit up to \$263.00 per month and eligible for cost-sharing reductions.

On September 9, 2014, you spoke to the Marketplace's Account Review Unit and submitted an appeal request.

On September 10, 2014, the Marketplace issued a notice of eligibility redetermination consistent with the September 9, 2014 preliminary determination. It stated that you remain eligible to enroll in a qualified health plan with up to \$263.00 monthly of advance premium tax credit, and to receive cost-sharing reductions provided you are enrolled in a silver level QHP. It also stated that you are not eligible for Medicaid because your household income is over the allowable limit.

On October 1, 2014, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was held open until October 8, 2014 to allow you to submit additional documentation. No additional evidence was received within the allotted timeframe. The record is now closed.

Findings of Fact

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

- 1) According to your Marketplace application and testimony, you are applying for health insurance through the Marketplace only for yourself.
- 2) You testified that you plan on filing your 2014 federal income tax return as Head of Household (with qualifying individual) and claim one dependent.
- 3) According to your final September 9, 2014 Marketplace application, you plan on filing your 2014 federal income tax return as Single and will claim no dependents on that return.
- 4) According to your September 9, 2014 Marketplace application and testimony, you expect \$21,912.00 in earned income during 2014.
- 5) You testified that your dependent, your 24-year-old daughter, has an expected 2014 income of \$0.00.
- 6) You testified that you resigned from your position at [REDACTED] on August 25, 2014.
- 7) You testified that you received your final paycheck from [REDACTED] on August 15, 2014.

- 8) You testified that you did not apply for unemployment insurance benefits because you resigned from your previous employment.
- 9) You testified that since August 15, 2014 you have not received any income.
- 10) You applied for health insurance through the Marketplace in September 2014.
- 11) According to your Marketplace application, you reside in Queens County, NY.
- 12) According to your Marketplace application, you are not currently receiving Medicaid benefits.

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)).

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

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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 \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

Cost-Sharing Reductions

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 an annual 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)).

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 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 \$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 \$263.00 per month.

In the application that was submitted on September 9, 2014, you attested to an expected yearly income of \$21,912.00, and the eligibility determination relied upon that information.

According to your final September 9, 2014 Marketplace application, you are the only member of your tax household. You expect to file as single on your 2014 federal income tax return and claim no dependents.

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$370.52 per month.

An annual household income of \$21,912.00 equals 190.70% of the 2013 FPL for a one-person household. At 190.70% of the FPL, the expected contribution to the cost of the health insurance premium is 5.87% of income, or \$107.22 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$370.52 per month) minus your expected contribution (\$107.22 per month), which equals \$263.30 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$263.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 190.70% of the FPL, for purposes of APTC and CSR, you were correctly found 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 \$21,912.00 is 187.78% 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 10, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$263.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is **AFFIRMED**.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation. At the hearing you credibly testified that you plan on filing your 2014 federal income tax return with the tax status of Head of Household (with qualifying individual) and claim one dependent on that tax return.

According to your September 9, 2014 Marketplace application, your 2014 expected income is \$21,912.00. You expect \$21,912.00 in earned income. You testified that your dependent, your 24-year-old daughter, has an expected 2014 income of \$0.00.

You credibly testified that you resigned from your position at [REDACTED] on August 25, 2014 and received your final paycheck on August 15, 2014.

You credibly testified that you did not apply for unemployment insurance benefits because you resigned from your previous employment and have not received any income since August 15, 2014.

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 calculated your September 9, 2014 eligibility by expected annual income but not by monthly income, your case should be returned to the Marketplace for an eligibility determination on monthly income.

Therefore, based on your credible testimony, your case is returned to the Marketplace to redetermine eligibility for a two-person household with a September 2014 income of \$0.00 and a 2014 expected annual income of \$21,912.00.

Decision

The September 10, 2014 eligibility determination is AFFIRMED.

Your case is returned to the Marketplace to redetermine eligibility for a two-person household with a September 2014 income of \$0.00 and a 2014 expected annual income of \$21,912.00.

Effective Date of this Decision: January 15, 2015

How this Decision Affects Your Eligibility

This decision has no effect on any determinations made after September 10, 2014.

Your case is returned to the Marketplace to redetermine eligibility for a two-person household with a September 2014 income of \$0.00 and a 2014 expected annual income of \$21,912.00.

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:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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Summary

The September 10, 2014 eligibility determination is AFFIRMED.

This decision has no effect on any determinations made after September 10, 2014.

Your case is returned to the Marketplace to redetermine eligibility for a two-person household with a September 2014 income of \$0.00 and a 2014 expected annual income of \$21,912.00.

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]
[REDACTED]