



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: AP000000000967

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 7, 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).

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NY State of Health Number: [REDACTED]
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[REDACTED]
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[REDACTED]

Issues

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

Did the Marketplace properly determine that, as of September 9, 2014, you were eligible to receive up to \$182.00 per month of advance premium tax credit and, if you enrolled in a silver-level plan, eligible to receive cost-sharing reductions?

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

Procedural History

The Marketplace received your initial application for health insurance on September 8, 2014, in which you attested to an expected yearly income of \$0.00.

On September 8, 2014, the Marketplace notified you through your online account that more information would be needed before an eligibility determination could be issued.

That same day, you uploaded a paystub to the Marketplace through your online account. It was issued to you on August 20, 2014 by [REDACTED], showing your year-to-date gross earnings as \$22,352.83. A letter from your former employer indicated that your last day of employment would be August 27, 2014, and that your last pay date would be September 3, 2014.

On September 9, 2014, the Marketplace modified your application to reflect an expected yearly income of \$22,352.83 and made a preliminary redetermination that you were eligible to enroll in a qualified health plan with an advance premium tax credit of up to \$182.00 and with cost-sharing reductions.

On September 9, 2014, you spoke with the Marketplace's Account Review unit and appealed that preliminary determination.

On September 10, 2014, the Marketplace issued a notice of eligibility determination stating that, with a household income of \$22,352.83, you were eligible to enroll in a qualified health plan with an advance premium tax credit of up to \$182.00 and, if you selected a silver-level plan, cost-sharing reductions, but ineligible for Medicaid coverage.

On October 7, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open, because the Hearing Officer directed you to provide the following additional evidence to corroborate your testimony: (1) paystubs you received from [REDACTED] in September 2014, (2) your Unemployment Insurance Official Record of Benefit Payment History reflecting benefits received during September 2014, and (3) paystubs you received from [REDACTED] in September 2014. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by October 22, 2014.

Accordingly, the record was closed on October 22, 2014.

Findings of Fact

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

- 1) You are unmarried and have one daughter who is not seeking health insurance through the Marketplace under your account.
- 2) You testified that you expect to file a U.S. Income Tax return for 2014, file as "single," and claim no dependents.
- 3) You testified that you expect your daughter, who is 21 years old and a full-time student, to be claimed as a dependent on her father's tax return for 2014.
- 4) You are seeking health insurance through the Marketplace only for yourself.
- 5) You reside in Rensselaer County, New York.

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- 6) As of August 20, 2014, you had earned a total of \$22,352.83 from [REDACTED].
- 7) Your September 10, 2014 determination was based on an expected yearly income of \$22,352.83 from [REDACTED].
- 8) You testified that you were employed by [REDACTED] during 2014 until your position was eliminated on August 27, 2014.
- 9) You testified that you ultimately received a total of \$24,092.74 in income from [REDACTED] during 2014, with a final payment of \$259.13 received on September 17, 2014.
- 10) You testified that on or about September 3, 2014, you filed a claim for unemployment benefits relating to your position with [REDACTED].
- 11) You testified that you were awarded \$393.00 per week in unemployment benefits, and received a total of \$564.00 of such benefits during September 2014.
- 12) You testified that you were employed by [REDACTED] on a part-time, per diem basis during September 2014. You further testified to working two days for [REDACTED] during September 2014, for which you were paid a total of \$277.69 on September 24, 2014.
- 13) You testified that you do not expect to receive any additional income from [REDACTED] because you are now physically unable to work.

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 (QHP) 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 QHP; 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)).

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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 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 for the 2014 tax year 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 \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

Cost-Sharing Reductions

Cost-sharing reductions 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

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 level for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 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 March 19, 2014).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for APTC of up to \$182.00 per month.

The application that was submitted on September 8, 2014 indicated an expected yearly income of \$0.00. Later that day you submitted documents showing \$22,352.83 in earnings as of August 20, 2014, and the eligibility determination relied upon that information.

According to the record, you are the only person in your tax household.

You reside in Rensselaer County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$294.14 per month.

An annual household income of \$22,352.83 is 194.54% of the 2013 federal poverty level (FPL) for a one-person household. At 194.54% of the FPL, the expected contribution to the cost of the health insurance premium is 6.05% of income, or \$112.70 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan available in the Marketplace in your county (\$294.14 per month) minus your expected contribution (\$112.70 per month), which equals \$181.44 per month. Therefore, computing to the nearest dollar, you would be eligible for APTC of up to \$181.00 per month.

The Marketplace computed your APTC by rounding \$181.44 to the next highest dollar, \$182.00. It therefore incorrectly calculated your APTC by \$1.00. Since this difference is not sufficient to support remand to the Marketplace for redetermination and should be reconciled on your 2014 federal income tax return.

Cost-sharing reductions are available to a person who has an annual expected household income no greater than 250% of the FPL. Since your annual

household income is 194.51% of the FPL, 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% 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 \$22,352.83 is 191.54% 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 earned income was \$24,092.74 and that this did not include unemployment benefits. You also testified that the earned income to date no longer reflected your current income situation. You stated that you would like your financial eligibility to be reconsidered.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be based on current monthly household income and family size.

Your application was received during September 2014. You testified that during September you received \$564.00 in unemployment benefits and \$277.69 in earnings from [REDACTED]. However, there is not enough information to show how much you received from [REDACTED] during September.

You testified that you earned \$24,092.74 from [REDACTED] during 2014. You received \$22,352.83 from them by August 20 and received the last payment (\$259.13) on September 17. This indicates that you received \$1,740.74 between August 20 and September 17, but not how much of that money you received during September.

The documents that the Hearing Officer asked you to send to the Marketplace could have shown how much money you received during September, but the documents were not provided.

The record does not show how much income you received during September. Therefore, there is not enough information to allow the Marketplace to determine your Medicaid eligibility on the basis of monthly income.

Accordingly, the September 10, 2014 determination is **AFFIRMED**.

Decision

The September 10, 2014 eligibility determination is AFFIRMED.

You are eligible for an advance premium tax credit of up to \$182.00 per month and, if you select a silver-level plan, cost-sharing reductions.

You remain ineligible for Medicaid.

Effective Date of this Decision: January 13, 2015

How this Decision Affects Your Eligibility

You are eligible for an advance premium tax credit of up to \$182.00 per month and, if you select a silver-level plan, cost-sharing reductions.

You remain ineligible for Medicaid.

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 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.

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If You Have Questions about this Decision (Customer Service Resources):

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- By fax: 1-855-900-5557

Summary

The September 10, 2014 eligibility determination is **AFFIRMED**.

You are eligible for an advance premium tax credit of up to \$182.00 per month and, if you select a silver-level plan, cost-sharing reductions.

You remain ineligible for Medicaid.

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]