



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

Notice of Decision

Decision Date: January 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000972

[REDACTED]
[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 August 28, 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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Issues

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

Did the Marketplace properly determine that you were eligible to receive up to \$294.00 per month of advance premium tax credit and eligible to receive cost-sharing reductions as of August 27, 2014?

Did the Marketplace properly determine that you were ineligible for Medicaid as of August 27, 2014?

Procedural History

The Marketplace received your initial application for health insurance on March 10, 2014.

On August 27, 2014, you modified your application to indicate that you had exhausted your unemployment benefits.

On August 28, 2014, the Marketplace issued a redetermination based on your August 27, 2014 application. It found you eligible to enroll in a qualified health plan, eligible to receive up to \$294.00 per month of advance premium tax credit (APTC), and eligible for cost-sharing reductions. However, you were found ineligible for Medicaid because your expected household income of \$18,708.43 for the year was over the limit for that program.

On September 10, 2014, you spoke with the Marketplace's Account Review unit and appealed that determination.

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).

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 for the sole purpose of providing you an opportunity to submit, as directed by the Hearing Officer, the following additional evidence: (1) your last paystub, received from your former employer on March 11, 2014; (2) a letter issued by your former employer stating that your last day of employment was February 13, 2014; and (3) your Unemployment Insurance Official Record of Benefit Payment History, reflecting that you had exhausted your unemployment benefits as of September 8, 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.

On October 8, 2014, you uploaded the above referenced documents to your online account for review by the Appeals Unit. As a result, the record was closed on October 8, 2014.

Findings of Fact

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

- 1) You testified that you expect to file a U.S. Income Tax return for 2014, file as "single" and claim no dependents.
- 2) In your August 27, 2014 application you attested to receiving \$8,178.43 in earned income from [REDACTED]. The final paystub you submitted to the Appeals Unit as additional evidence reflects that your total income received from [REDACTED] during 2014 was \$11,386.68; however, that included amounts that were "excluded from federal taxable wages."
- 3) On or about March 3, 2014, you filed a claim for unemployment benefits relating to your employment with [REDACTED]. You were awarded \$405.00 per week and began receiving weekly payments beginning on March 17, 2014. You exhausted your unemployment benefits on September 8, 2014. During this period you received a total of \$10,530.00.
- 4) According to your application, you are seeking health insurance through the Marketplace for only yourself.
- 5) You reside in New York County, New York.
- 6) You testified that you were employed by [REDACTED] during 2014 until your employment ended on February 13, 2014.

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- 7) According to the Official Record of Benefit Payment History, you received four unemployment benefits payments of \$405.00 during August 2014 and two payments of \$405.00 during September 2014.
- 8) You testified that you received no other income from any other source during September 2014.

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 approved 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

(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 towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on household's income (26 USC § 36B(b)(3)(A)).

For household income in the range of at least 150% of the FPL but less than 200% FPL, the expected contribution is between 4% and 6.3% of the household income (26 CFR § 1.36B-3(g)(2)).

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 (CSRs) are available 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% 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 FPL 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 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 up to \$294.00 of advance premium tax credit (APTC).

Your modified application submitted on August 27, 2014 indicated that your expected yearly income was \$18,708.43, which comprised (1) \$8,178.43 in income received from [REDACTED] prior to the end of your employment on February 13, 2014, and (2) \$10,530.00 in unemployment benefits received in 2014. The

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paystub you provided to the Appeals Unit indicates that the total income you received from ██████ was \$11,386.68; however, that same paystub indicated that the \$11,386.68 included some amounts that were excluded from federal taxation. Your total annual earnings for the purpose of determining your eligibility for financial assistance for health insurance would therefore appear to be between \$18,708.43 and \$21,898.68. The precise amount would depend on how much of the money you received from ██████ was not a part of your adjusted gross income.

For purposes of this Decision, we rely upon your attested income of \$18,708.43. Any discrepancy will be reconciled on your federal individual income tax return for 2014.

According to the record, you expect to file as “single” on your tax return for 2014 and claim no dependents. Therefore, for purposes of this Decision you are in a one-person household.

You reside in New York County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$365.28 per month.

An annual household income of \$18,708.43 equals 162.82% of the 2013 FPL for a one-person household. At 162.82% of the FPL, the expected contribution to the cost of the health insurance premium is 4.59% of income, or \$71.56 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$365.28 per month) minus your expected contribution (\$71.56 per month), which equals \$293.72 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$294.00 per month.

The second issue is whether the Marketplace properly determined you to be eligible for cost-sharing reductions.

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 \$18,708.43 is 162.82% of the FPL, you were correctly found eligible for cost-sharing reductions.

The next issue is whether the Marketplace properly determined you to be ineligible for Medicaid.

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

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\$11,670.00 for a one-person household. Since \$18,708.43 is 160.31% 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 August 28, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$294.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

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

You credibly testified and provided evidence that you received \$1,620.00 in unemployment benefits during August 2014 and that you received only \$810.00 in unemployment benefits during September 2014. Therefore, the record supports findings that your income for August 2014 was \$1,620.00 and that your income for September 2014 was \$810.00.

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 calculated your August 27, 2014 eligibility by expected annual income but not by monthly income, the case should be returned to the Marketplace for an eligibility determination on monthly income for the months of August 2014 and September 2014.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a one-person household in New York County, with an August 2014 income of \$1,620.00 and a September 2014 income of \$810.00.

Decision

The August 28, 2014 eligibility redetermination is AFFIRMED.

Effective Date of this Decision: January 14, 2015

How this Decision Affects Your Eligibility

You remain eligible for an advance premium tax credit of up to \$294.00 per month and eligible for cost-sharing reductions.

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This case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household residing in New York County with an August 2014 income of \$1,620.00 and a September 2014 income of \$810.00.

This decision considers only at the August 8, 2014 notice of determination. It does not affect or change any Marketplace determination made after that date.

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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P.O. Box 11729
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- By fax: 1-855-900-5557

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Summary

The August 28, 2014 eligibility redetermination is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$294.00 per month and eligible for cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household residing in New York County with an August 2014 income of \$1,620.00 and a September 2014 income of \$810.00.

This decision looks only at the August 28, 2014 notice of determination. It does not affect or change any Marketplace determination made after that date.

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]