



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: AP000000000976

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 6, 2014, your husband appeared on your behalf by telephone at a hearing on your appeal of NY State of Health Marketplace's September 12, 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]
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Issue

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

Did the Marketplace properly determine that you are eligible for an advance premium tax credit of up to \$260.00 per month and, if you enroll in a silver-level qualified health plan, for cost-sharing reductions as of September 11, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of September 11, 2014?

Procedural History

On August 5, 2014, the Marketplace received your updated application, which you then modified on September 9, 10, and 11, 2014.

On September 11, 2014, the Marketplace made a preliminary redetermination that you were eligible for an advance premium tax credit of up to \$260.00 per month and, if you enrolled in a silver-level qualified health plan, for cost-sharing reductions. You were also not found eligible for Medicaid.

On September 11, 2014, you spoke with a representative in the Marketplace's Account Review Unit and appealed that determination.

On September 12, 2014, the Marketplace issued a notice of eligibility redetermination that was consistent with the September 11, 2014 preliminary redetermination.

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On October 6, 2014, your husband acting on your behalf had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. A Bengali Interpreter [REDACTED] helped interpret between Bengali and English. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You, your husband, and your infant daughter, who was born on [REDACTED] live in Queens County, New York.
- 2) You and your husband plan on filing your 2014 tax return as married filing jointly and claiming your infant as a dependent.
- 3) You and your infant child applied for health insurance through the Marketplace, but only you have been determined eligible for advance premium tax credit.
- 4) You have provided the Marketplace with proof that you are a naturalized citizen and have a U.S. passport and New York State driver's license.
- 5) According to your Marketplace application, your daughter was born in Queens County, New York, on [REDACTED]; has a Social Security number; and is a U.S. citizen.
- 6) According to the Marketplace, your husband also has a Social Security number and is a U.S. citizen.
- 7) You went out of work on a temporary leave of absence on July 20, 2014. Your husband testified that due to health reasons you do not expect to return to work on October 13, 2014, as originally planned (Appellant's Exhibit A).
- 8) Your husband testified that you do not receive any disability pay or sick leave pay and have no other sources of income.
- 9) Your husband testified that the [REDACTED] where he was working closed in July 2014 and he was sent to another [REDACTED] to work where he makes less money. He still only works for [REDACTED]: [REDACTED]
[REDACTED]

- 10) The record contains recent paystubs from your husband's employment with [REDACTED], showing gross earnings on August 5, 2014 of \$84.25; on August 12, 2014 of \$97.65; on August 19, 2014 of \$157.25 and on August 26 of \$149.85 (Appellant's Exhibits B and D). This indicates a total August income from this employer of \$489.00.
- 11) The record contains recent pay stubs from your husband's employment with [REDACTED] showing gross earnings on August 15, 2014 of \$245.54; on August 22, 2014 of \$428.27; and on August 29, 2014 of \$397.90 (Appellant's Exhibit C). This indicates a total August income from this employer of \$1,071.71.
- 12) Your husband testified that the income he earned in August 2014 will be comparable to his earnings for each month for the rest of 2014.
- 13) Your husband testified that you both want your eligibility reconsidered based on current monthly income and want to be considered for Medicaid.

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

- 1) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

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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 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 \$19,530.00 for a three-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 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; (4) are not otherwise eligible for and enrolled for mandatory coverage under Medicaid; and (5) have a household modified adjusted gross income that is at or below 138% of the current FPL for the applicable family size (42 CFR §§ 435.119(b), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

Medicaid is currently available to an infant under one year of age who have a modified adjusted gross income up to 223% of the current FPL for the applicable family size (see 42 CFR § 435.118(d); NY Department of Health Administrative Directive 13 ADM-03).

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 \$19,790.00 for a three-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

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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, your husband and your infant child. You plan on filing your 2014 tax return as married filing jointly and will claim your child as a dependent. Therefore, you have a three-person household for purposes of this analysis.

You live (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.

According to your Marketplace application and your evidence at the hearing, you earned \$6,319.66 during 2014 before you took a leave of absence in July 2014, and you do not expect to return to work as originally planned. Your husband's income was reported as \$16,905.00, \$3,400.00, and \$4,000.00 from three different employments. This supports a finding that your expected 2014 income is \$30,624.66, which is the household income used for the September 1, 2014 determination.

An annual household income of \$30,624.66 equals 156.81% of the 2013 Federal Poverty Level (FPL) for a three-person household. At 156.81% of the FPL, the expected contribution to the cost of the health insurance premium is 4.31% of income, or \$110.07 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 (\$370.52 per month) minus your expected contribution (\$110.07 per month), which equals \$260.45 per month. Therefore, the Marketplace correctly computed your APTC, as rounded to the nearest dollar, to be \$260.00 per month on an expected-income basis.

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 \$30,624.66 is 156.81% 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 \$19,790.00 for a three-person household. Since \$30,624.66 is 154.75% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an

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expected annual income basis, using the information provided in your application.

Since the September 12, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$260.00 per month and not eligible for Medicaid, it is correct and is AFFIRMED.

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

Your husband credibly testified and submitted documentary proof that the income your household received during August 2014, the month during which you initially submitted your application, consisted only of his earnings. He testified and provided proof that he earned \$489.00 from one [REDACTED] and \$1,071.71 from the other during August 2014, and that you did not earn any income after July 20, 2014. Therefore, your household income for August 2014 is \$1,560.71.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid, you and your husband would need to meet the non-financial criteria and have a monthly income no greater than 138% of the FPL, which is \$2,276.00 per month. For your infant child to be eligible for Medicaid, she would need to meet the age requirement of being under one year of age and have a household monthly income of up to 223% of the FPL.

Since the record suggests that the Marketplace calculated your September 11, 2014 eligibility by expected annual income and not by monthly income, your case should be returned to the Marketplace for an eligibility determination on monthly income.

Therefore, your case is returned to the Marketplace to redetermine eligibility for a three-person household with an August 2014 income of \$1,560.71.

Decision

The September 12, 2014 eligibility determination is AFFIRMED.

Your case is returned to the Marketplace for redetermination of your eligibility for a three-person household with a total income of \$1,560.71 for the month of August 2014.

Effective Date of this Decision: January 15, 2015

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).

How this Decision Affects Your Eligibility

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, taking into account the additional information you provided before and during your hearing.

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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- By fax: 1-855-900-5557

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Summary

The September 12, 2014 eligibility determination is AFFIRMED.

Your case is returned to the Marketplace for redetermination of your eligibility for a three-person household with a total income of \$1,560.71 for the month of August 2014.

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, taking into account the additional information you provided before and during your hearing.

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]
[REDACTED]