



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: AP000000000978

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 9, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 13, 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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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 for an advance premium tax credit of up to \$29.00 per month as of September 12, 2014?

Did the Marketplace properly determine that you are not eligible for cost-sharing reductions as of September 12, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of September 12, 2014?

Procedural History

The Marketplace received your application on September 12, 2014 and made a preliminary determination in your case that you are eligible for an advance premium tax credit of up to \$29.00 per month, but not eligible for cost-sharing reductions or Medicaid because your expected 2014 income was over the allowable income limit for those programs.

On September 12, 2014, you spoke with a representative in the Marketplace's Account Review Unit and appealed that preliminary determination.

On September 13, 2014, the Marketplace issued an eligibility determination that is consistent with the September 12, 2014 preliminary eligibility determination.

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On October 9, 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 proof of income. The record was to be held open up to October 24, 2014, or until you submitted your evidence, whichever occurred earlier.

On October 10, 2014, the Marketplace's Appeals Unit received a five-page fax from you. It consists of (1) a cover sheet, (2) a Certificate of Group Health Insurance, and (3) an Employee Earnings Record. The fax was marked collectively as "Appellant's Exhibit A" and made part of the record. The record was closed that same day.

Findings of Fact

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

- 1) You are single and live in New York County, New York.
- 2) You plan on filing your 2014 federal income tax return as single.
- 3) You testified that you lost your salaried job on August 20, 2014 and your health insurance as of August 31, 2014.
- 4) The record contains an Employee Earnings Record from your employer which indicates a termination date of August 20, 2014 (Appellant's Exhibit A, p.4).
- 5) The record contains a letter from UnitedHealthcare stating that your medical coverage end date is August 31, 2014 (Appellant's Exhibit A at p.2).
- 6) You testified that you were paid two weeks in advance by your previous employer and received your last pay check on August 15, 2014.
- 7) The record contains your last pay statement showing a payment date of August 15, 2014 with gross earnings of \$3,003.04 (Appellant's Exhibit A at pp.3-5)).
- 8) You testified and provided documentary proof that you earned \$6,006.08 monthly for seven months at that job and reported on your Marketplace Application that you plan on taking \$1,540.00 in deductions on your 2014 tax return (Appellant's Exhibit A at pp.3-5; Marketplace Application).
- 9) You testified that you had no income during the month of September 2014.

- 10) You testified that you began working in October 2014 for a different employer and are paid solely on commission.
- 11) You testified that you do not know what your commission income for that month will be because you cannot forecast how well you will do.
- 12) You have no other sources of income.

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 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 300% but less than 400% of the 2013 FPL, the expected contribution is 9.5% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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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 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

An individual is eligible for enrollment in Medicaid when he 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 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 \$29.00 per month.

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In the application that was submitted on September 12, 2014, you attested to an expected yearly income of \$42,460.00, and the eligibility determination relied upon that information.

According to the record you are the only person in your tax 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 \$42,460.00 equals 369.54% of the 2013 federal poverty level (FPL) for a one-person household. At 369.54% of the FPL, the expected contribution to the cost of health insurance premium is 9.5%, which equals \$336.14 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$365.28) minus your expected contribution (\$336.14 per month), which equals \$29.14 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$29.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 369.54% of the FPL, the Marketplace correctly determined that you are not 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 \$42,460.00 is 363.84% 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 13, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$29.00 per month, not eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, at the hearing you testified that you lost your job as of August 20, 2014, which caused you to have no income or health insurance, and your 2014 expected annual household income no longer reflects your current household income situation. You would like your financial eligibility to be reconsidered.

You credibly testified that you had no income in September 2014, the month in which you applied for health insurance through the Marketplace. You submitted documentary proof that your last pay check was for the period ending on August 15, 2014. You also credibly testified that you did not begin to work on a commission basis until October 2014. Therefore, your household income for September 2014 is \$0.00.

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 September 13, 2014 eligibility by expected annual income and not by monthly income, your case should be returned to the Marketplace for a redetermination of eligibility using an income of \$0.00 for the month of September 2014.

Therefore, your case is returned to the Marketplace to redetermine eligibility for a one-person household with a September 2014 income of \$0.00.

Decision

The September 12 2014 eligibility determination, as issued on September 13, 2014, is AFFIRMED.

Your case is returned to the Marketplace to redetermine eligibility for a one-person household with a September 2014 income of \$0.00.

Effective Date of this Decision: January 15, 2015

How this Decision Affects Your Eligibility

You remain eligible to enroll in a qualified health plan and to receive an advance premium tax credit of up to \$29.00 per month.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and a September 2014 income of \$0.00.

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.

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).

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 12, 2014 eligibility determination, as issued on September 13, 2014, is AFFIRMED.

You remain eligible to enroll in a qualified health plan and to receive an advance premium tax credit of up to \$29.00 per month.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and a September 2014 income of \$0.00.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]