



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

Notice of Decision

Decision Date: January 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000989

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 14, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 16, 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 to receive an advance premium tax credit of up to \$271.00 per month and, if you select a silver-level qualified health plan, for cost-sharing reductions as of September 15, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of September 15, 2014?

Procedural History

The Marketplace received your completed application on September 15, 2014 and made a preliminary determination in your case that same day that you are eligible for an advance premium tax credit of up to \$271.00 per month and cost-sharing reductions.

That same day, you spoke with a representative in the Marketplace's Account Review Unit and appealed that determination.

On September 16, 2014, the Marketplace issued an eligibility determination that was consistent with the September 15, 2014 preliminary eligibility determination. It also stated that you are not eligible for Medicaid because the income you provided of \$17,472.00 is over the allowable income limit of \$16,105.00.

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On October 14, 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 documents. The record was to be closed on October 29, 2014, or upon receipt of those documents, whichever occurred earlier.

On October 14, 2014, the Marketplace's Appeals Unit received a 2-page fax, which consisted of a cover page and an Oxford Health Plans certificate of group health plan coverage. This evidence was made part of the record as "Appellant's Exhibit B."

On October 21, 2014, the Marketplace's Appeals Unit received a 3-page fax, which consisted of a cover page and pay stubs for pay periods ending August 29, 2014, and September 26, 2014. On the cover page you wrote that you were "unable to find pay stub from middle of Sept. If found, will fax." This evidence was made part of the record as "Appellant's Exhibit C."

As of the close of business on October 29, 2014, the Marketplace's Appeals Unit had not received any other documentation from you nor had any documents been uploaded to your Marketplace online account. Therefore, 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, have no dependents, and reside in Orange County, New York.
- 2) You plan on filing your 2014 tax return as single and will not be claiming any dependents.
- 3) You testified that you are not a parent or relative caregiver but you do care for a person in need and pay rent to his father by purchasing food for the household. This costs you about \$400.00 per month.
- 4) You stated that you switched from full-time to part-time work in September 2014 so that you could tend to the medical and personal needs of the person you care for.
- 5) You testified that you earn \$14.00 per hour and worked 40 hours full time the last pay period in August 2014 and the first week of September 2014; worked 24 hours the second week, which was your new part-time schedule; and were required to work 32 hours the third and fourth week of September 2014, to be able to maintain your health insurance until

- September 30, 2014. According to a copy of your earnings statement for the period of August 16, 2014 to August 29, 2014, you worked 80 hours this pay period at \$14.00 per hour and received gross earnings of \$1,120.00 on the pay date of September 3, 2014 (Appellant's Exhibit C, p. 2).
- 6) You testified and provided an earnings statement showing that, for the period of September 13, 2014 to September 26, 2014, you received gross earnings of \$672.00 on the pay date of October 1, 2014 and your year-to-date earnings were \$21,423.50 (Appellant's Exhibit C, p.3).
 - 7) An Oxford Health Plans certificate of group health plan coverage, dated October 14, 2014, shows that September 30, 2014 was the end date of your medical coverage through your employer (Appellant's Exhibit B, p.2).
 - 8) You testified that as of October 1, 2014, you are working 24 hours per week at \$14.00 per hour.
 - 9) You testified that you have student loans that you pay each month and expect to take a deduction of approximately \$546.00 in student loan interest on your 2014 tax return, which is similar to the amount you stated you had taken in deductions on your 2013 tax return. According to a June 23, 2014 payment reminder letter from [REDACTED], the outstanding principal on your student loans totals \$8,892.57 and the annual interest total is approximately \$546.23 (Appellant's Exhibit A).
 - 10) You testified that you cannot afford to pay monthly premiums because of expenses, such as your monthly rent and essential needs and student loan repayments.

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 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).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on adjusted gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

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 qualified health plan (45 CFR § 155.305(g)(1)).

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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 § 435.603(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).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a Qualified Health Plan (QHP). Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605(a), (g)).

NY State of Health currently defers to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for information and an application.

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 \$271.00 per month.

In the application that was completed on September 15, 2014, you attested to an expected yearly income of \$17,472.00, and the eligibility determination relied upon that information.

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

You reside in Orange County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$330.41 per month.

An annual household income of \$17,472.00 equals 152.06% of the 2013 federal poverty level (FPL) for a one-person household. At 152.06% of the FPL, the expected contribution to the cost of the health insurance premium is 4.09% of income, or \$59.62 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$330.41 per month) minus your expected contribution (\$59.62 per month), which equals \$270.79 per month. Therefore, the Marketplace correctly computed your APTC, as rounded to the nearest dollar, to be \$271.00 per month on an expected-income basis of \$17,472.00 for a one-person household.

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 \$17,472.00 is 152.06% 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% 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 \$17,472.00 is 149.72% 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 16, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$271.00 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 reported household income no longer reflects your current income situation and you would like your financial eligibility to be reconsidered.

The record indicates that the only income you received during August 2014, the month of your completed application, consisted of earnings from your employment. According to the earnings statement you received from your employer on September 3, 2014, you received gross earnings from employment of \$1,120.00 (Appellant's Exhibit C, p. 2). According to your testimony, you worked 40 hours the first week in September 2014 and 24 hours the second week that month. Although you did not provide the earnings statement for this pay period, based on your Exhibit C, it is reasonable to infer that your pay date for these two weeks was September 17, 2014, which is two weeks after the September 3, 2014 pay date, and that your gross earnings for the period were \$896.00 (\$14.00 per hour times 64 hours). Accordingly, your income for September 2014 was \$2,016.00.

Your only income for October 2014, the month of your hearing and when you first needed health insurance, was as earnings from your employment. According to the pay stub with a pay date of October 1, 2014, you received \$672.00 that day, which is consistent with your testimony that you began a reduced work schedule of 24 hours per week (\$14.00 per hour x 48 hours = \$672.00) (Appellant's Exhibit C, p.3). According to your credible testimony and documentation, you continued to work a reduced work schedule during October 2014. Based on the evidence in the record and the pay period and pay date history, it is reasonable to infer that you had two more pay dates after the October 1, 2014 pay date, on October 15, 2014 and October 29, 2014, and received \$672.00 in gross earnings on each pay date. Accordingly, your income for October 2014 was \$2,016.00 (\$672.00 x 3 pay dates).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. To be eligible for Medicaid, you must meet the non-financial criteria and have an income no greater than 138% of the FPL which is \$1,343 per month. Even taking into consideration that you have a \$546.00 student loan interest deduction, when spread over 12 months is \$45.50 per month, your monthly income for each month after this deduction is \$1,970.50, which is still over \$1,343 for September 2014 and for October 2014. Therefore, according to the available evidence of record, you do not qualify for Medicaid on the basis of monthly income during those months.

If you would like your household's eligibility for the month of November 2014 redetermined, please provide proof to the Marketplace of your actual earnings received that month, such as all earnings statements with November 2014 check dates.

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).

Decision

The September 16, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 16, 2014

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You remain eligible for an advance premium tax credit of up to \$271.00 per month, and you remain eligible for cost-sharing reductions provided you are enrolled in a silver level qualified health plan through the Marketplace.

If you wish to be considered for a hardship exemption, check the Federal Marketplace website (www.healthcare.gov) for an application.

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 16, 2014 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

You remain eligible for an advance premium tax credit of up to \$271.00 per month, and you remain eligible for cost-sharing reductions provided you are enrolled in a silver level qualified health plan through the Marketplace.

During the months of September 2014 and October 2014, you were not eligible for Medicaid because your monthly income was higher than \$1,343.00 for those months.

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website (www.healthcare.com).

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]