



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: AP000000000990

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On October 6, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 11, 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]
Appeal Identification Number: AP000000000990

[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 10, 2014, [REDACTED] was eligible for an advance premium tax credit of up to \$145.00 per month?

Did the Marketplace properly determine that, as of September 10, 2014, [REDACTED] was eligible for cost-sharing reductions if he enrolled in a silver level health plan?

Did the Marketplace properly determine that, as of September 10, 2014, [REDACTED] was not eligible for Medicaid?

Procedural History

The Marketplace received your household's application for health insurance on September 9, 2014.

On September 10, 2014, an eligibility determination notice was issued. The notice stated that you and your spouse were eligible to share an advance premium tax credit (APTC) of up to \$510.00 per month. You and your spouse also were found eligible for cost-sharing reductions if you enrolled in a silver level health plan.

On September 10, 2014, your household's application for health insurance was updated to reflect the fact that you are pregnant and the Marketplace made a preliminary determination for you and your spouse. You were found eligible for

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Medicaid, and your spouse was found eligible for up to \$145.00 per month in APTC and for cost-sharing reductions.

On September 11, 2014, the Marketplace issued a notice of eligibility determination for your spouse. It was consistent with the September 10, 2014 preliminary eligibility determination, except that it did not specify the amount of his APTC. The notice further stated that he was not eligible for Medicaid because his household income was over the limit for that program.

On September 15, 2014, you spoke with the Marketplace's Account Review Unit and appealed [REDACTED] eligibility determination.

On October 6, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was left open for 15 days to allow you the opportunity to submit additional evidence of your and [REDACTED] income. On October 21, 2014 you uploaded evidence of your income to your Marketplace account; however, no information on [REDACTED] income was received within the allotted 15-day timeframe. The record is now closed.

Findings of Fact

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

- 1) You testified that you are appealing your spouse's eligibility determination.
- 2) You testified that you and your spouse plan to file your 2014 federal income tax return as married filing jointly and to claim your son as your only dependent.
- 3) Your application states that you have an expected annual income of \$40,400.00. You testified that this amount is what you reasonably predict your income will be.
- 4) You testified that your own annual expected income for 2014 is approximately \$26,000.00.
- 5) You provided a letter from your employer stating that during the month of September 2014 you received \$531.00 per week in gross pay.
- 6) You testified that your spouse's expected annual income is approximately \$14,400.00.
- 7) You testified that your spouse's annual income is difficult to estimate because it fluctuates greatly from month to month.

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- 8) You testified that during September 2014 your spouse earned \$0.00. You were asked to provide a letter from his employer to confirm this amount.
- 9) In your application, you attested that you and your spouse reside in New York County, New York.
- 10) You testified that you and your spouse were previously enrolled in Medicaid but in September 2014 were asked to recertify and lost Medicaid coverage. You then applied for insurance through the Marketplace.
- 11) You testified that your spouse is seeking Medicaid eligibility because of the fluctuations in his monthly 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 (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), 435.911(b)(1), 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 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 household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 200% but less than 250% of the 2013 FPL, the expected contribution is between 6.30% and 8.05% 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 (CSR) 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 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 determining household size for Medicaid eligibility for a pregnant woman, the woman is counted as herself plus the number of children she is expected to deliver (see 26 CFR § 1.36B-1(d), 42 CFR 435.603(b), SPA 13-0055-MM3, as approved March 19, 2014).

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).

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).

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Legal Analysis

The first issue is whether the Marketplace correctly found your spouse eligible for an advance premium tax credit (APTC) of up to \$145.00 per month.

In the application that was submitted on September 10, 2014, you attested to an expected yearly income of \$40,400.00, and the eligibility determination relied upon that information.

You testified that you and your spouse plan to file your tax return as married filing jointly and to claim one dependent on that tax return. Therefore, your spouse is in a three-person household for the purposes of calculating his eligibility for APTC and cost-sharing reductions.

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

An annual household income of \$40,400.00 equals 206.86% of the 2013 federal poverty level (FPL) for a three-person household. At 206.86% of the FPL, the expected contribution to the cost of the health insurance premium is 6.54% of income, or \$220.18 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace in your county (\$365.28 per month) minus your expected contribution (\$220.18 per month), which equals \$145.10 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your spouse's APTC to be \$145.00 per month.

The second issue is whether the Marketplace correctly found your spouse eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 206.86% of the FPL, your spouse was correctly found 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 the 2014 FPL of \$19,760.00 for a three-person household. Since \$40,400.00 is 204.14% of the 2014 FPL, the Marketplace properly found your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

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Since the September 11, 2014 eligibility determination properly stated that, based on the information you provided, your spouse was eligible for APTC, 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 does not consistently reflect your spouse's monthly income and that you would like his financial eligibility to be reconsidered.

The \$40,400.00 income you attested to consists of \$26,000.00 in expected income from your employment and \$14,400.00 in expected income from your spouse's employment. You testified that your spouse's income fluctuates month to month and that \$14,400.00 was your most reasonable estimate of his 2014 annual earnings.

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 spouse's September 11, 2014 eligibility by expected annual income but not by monthly income, the case would ordinarily be returned to the Marketplace for an eligibility determination on monthly income.

You provided evidence that during September you earned \$531.00 per week, which results in a monthly income of \$2,124.00. You testified that your spouse had no income during September. You were directed to provide a letter from his company to confirm this, but no supporting documents have been provided to confirm your testimony.

Since documentary evidence of your spouse's September 2014 income is not available for review, the record does not support remanding the case to the Marketplace for redetermination of your spouse's Medicaid eligibility on the basis of September 2014 income.

Decision

The September 11, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 16, 2015

How this Decision Affects Your Eligibility

Your spouse remains eligible for \$145.00 per month in advance premium tax credit and eligible for cost-sharing reductions if he enrolls in silver level health plan.

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Since documentary evidence of your spouse's September 2014 income is not available for review, the record does not support remanding the case to the Marketplace for redetermination of your spouse's Medicaid eligibility on the basis of September 2014 income.

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 11, 2014 eligibility determination is AFFIRMED.

Your spouse remains eligible for \$145.00 per month in advance premium tax credit and for cost-sharing reductions if he enrolls in silver level health plan.

Since documentary evidence of your spouse's September 2014 income is not available for review, the record does not support remanding the case to the Marketplace for redetermination of your spouse's Medicaid eligibility on the basis of September 2014 income.

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]