



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

Notice of Decision

Decision Date: January 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001046

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

Dear [REDACTED],

On November 19, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 30, 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]
[REDACTED]
[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were eligible for up to \$296.00 per month of advance premium tax credit, eligible for cost-sharing reductions, and ineligible for Medicaid, as of September 30, 2014?

Procedural History

The Marketplace received your initial application for health insurance on March 25, 2014, in which you attested to an income of \$14,560.00.

On March 26, 2014, the Marketplace sent you a notice stating that more information was needed before a determination could be made. You were directed to provide documents supporting your attested income no later than April 12, 2014.

The Marketplace received several spreadsheets with income information; but on June 13, 2014 and September 11, 2014, the Marketplace notified you that the documentation you provided did not satisfy the request for documents to prove your attested level of income.

On September 22, 2014, the Marketplace received a June 27, 2014 letter from your employer, [REDACTED] stating that you had been employed since February 2014 and were paid \$9.50 per hour.

On September 29, 2014, you submitted a modified application to the Marketplace, in which you attested to an income of \$19,760.00.

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On September 30, 2014, the Marketplace issued a notice of eligibility determination based on your September 29, 2014 application. It found you eligible to enroll in a qualified health plan with up to \$296.00 per month of advance premium tax credit and, if you selected a silver-level plan, cost-sharing reductions. However, you were determined ineligible for Medicaid. This determination relied on your attested household income of \$19,760.00.

On October 11, 2014, you spoke to the Marketplace Account Review Unit and appealed the September 30, 2014 eligibility determination.

On November 19, 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 because the Hearing Officer directed you to provide additional documentation of the income you received during September and October 2014. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documentation, whichever occurred earlier.

On December 1, 2014, the Appeals Unit received via facsimile an additional letter from your employer, dated November 21, 2014, indicating income you received during September and October 2014. This additional income documentation was marked as Appellant's Exhibit A and made part of the record. The record was closed on December 1, 2014.

Findings of Fact

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

- 1) You are single and have no children.
- 2) You expect to file a U.S. Income Tax return for 2014, file as "single" and claim no dependents.
- 3) You are seeking health insurance through the Marketplace for just yourself.
- 4) You reside in Suffolk County, New York.
- 5) You testified that you have been employed by [REDACTED] since February of 2014.
- 6) In a June 27, 2014 letter, [REDACTED] managing partner states that you have been a full-time employee since February 2014 and earn \$9.50 per hour.

- 7) In your September 29, 2014 application, you attested to an income from [REDACTED] of approximately \$380.00 per week.
- 8) During your hearing, you testified that you earn about \$380.00 per week but that your actual weekly earnings can fluctuate based upon the availability of work.
- 9) A November 1, 2014 letter from [REDACTED] “managing owner” states that you earned \$380.00 per week from September 1, 2014 to November 3, 2014 (Appellant’s Exhibit A).
- 10) According the to the November 1, 2014 letter from [REDACTED], your household income during September 2014 was \$1,520.00 (Appellant’s Exhibit A).
- 11) According the to the November 1, 2014 letter from [REDACTED], your household income during October 2014 was \$1,520.00 (Appellant’s Exhibit A).
- 12) You testified that the insurance premiums available to you through the Marketplace are unaffordable due to your current income level and other living expenses, even after applying the tax credit.

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), 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 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 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% FPL but less than 200% FPL, the expected contribution is from 4.00% to 6.30% of the household income (26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

In an analysis of eligibility for APTC and cost-sharing reductions, 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 September 29, 2014 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

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), 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 September 29, 2014 application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593). Accordingly, for a one-person household, the maximum allowable income to be eligible for Medicaid is \$16,105.00 (138% FPL), which is \$1,343.00 per month.

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 \$296.00 per month.

In the application that was submitted on September 29, 2014, you attested to an expected yearly income of \$19,760.00, and the eligibility determination relied upon that information.

According to the record, you expect to file as “single” on your U.S. Income Tax return for 2014 and claim no dependents. Therefore, you are in a one-person tax household.

You reside in Suffolk County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$378.00 per month.

An annual income of \$19,760.00 is 171.98% of the 2013 federal poverty level (FPL) for a one-person household. At 171.98% of the FPL, the expected contribution to the cost of the health insurance premium is 5.01% of income, or \$82.51 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$378.00 per month) minus your expected contribution (\$82.51 per month), which equals \$295.49 per month.

Therefore, the Marketplace correctly computed your APTC, to the nearest dollar, to be \$296.00 per month.

Cost-sharing reductions are available to a person who has an annual expected household income no greater than 250% of the FPL. Since a household income of \$19,760.00 is 171.96% of the 2013 FPL, the Marketplace correctly found you 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 September 29, 2014 application, the relevant FPL was \$11,670.00 for a one-person household. Since \$19,760.00 is 169.32% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information available in your application.

Since the Marketplace properly determined that you were eligible to receive up to \$296.00 per month of APTC and cost-sharing reductions, but ineligible for Medicaid coverage, the September 30, 2014 eligibility determination is correct and AFFIRMED.

At the hearing, however, you credibly testified that your 2014 expected annual household income does not reflect your current income situation and that you would like your financial eligibility to be reconsidered since your weekly income fluctuates.

At the direction of the Hearing Officer, on December 1, 2014, you provided a letter from [REDACTED] indicating that you earned \$380.00 per week for the weeks ending on September 5th, September 12th, September 19th and September 26th. This letter also indicated that you earned \$380.00 per week for the weeks ending on October 3rd, October 10th, October 17th and October 24th. While this letter does not specify the date you received each payment, it is reasonable to infer that you would have received each payment immediately after having performed your work for the given week. Therefore, the credible evidence of record supports a finding that your household income for September and October of 2014 was \$1,520.00 for each month.

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 would need to meet the non-financial criteria and have an income no greater than 138% of the FPL which is \$1,343.00 per month.

While the record has now been developed with additional and more reliable information on your 2014 income, you are still not eligible for Medicaid for the months of September and October 2014 because the income you received each month of \$1,520.00 was over the allowable limit of \$1,343.00.

Therefore, the September 30, 2014 eligibility determination is AFFIRMED.

Decision

The September 30, 2014 eligibility determination is AFFIRMED.

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).

Effective Date of this Decision: January 28, 2015

How this Decision Affects Your Eligibility

You remain eligible to receive \$296.00 per month of advance premium tax credit and, if you select a silver-level plan, eligible for cost-sharing reductions.

You are not eligible for Medicaid.

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

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- By fax: 1-855-900-5557

Summary

The September 30, 2014 eligibility determination is AFFIRMED.

You remain eligible to receive \$296.00 per month of advance premium tax credit and, if you select a silver-level plan, eligible for cost-sharing reductions.

You are not eligible for Medicaid.

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]