



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: AP000000001058

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On November 10, 2014 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 23, 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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[REDACTED]
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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 22, 2014, you were eligible for up to \$342.00 per month in advance premium tax credit and cost sharing reductions?

Did the Marketplace properly determine that, as of September 22, 2014, you were not eligible for Medicaid?

Procedural History

The Marketplace received your application for health insurance on September 22, 2014. That same day, a preliminary eligibility determination was rendered in your case.

On September 22, 2014, you spoke to the Marketplace's Account Review Unit and appealed that determination.

On September 23, 2014, the Marketplace issued a notice detailing the preliminary eligibility determination that had been made on your September 22, 2014 application. That notice stated that you were eligible to enroll in a qualified health plan through the Marketplace and receive up to \$342.00 per month in advance premium tax credit and cost-sharing reductions based on a household income of \$17,472.00. The notice also stated that you were not eligible for Medicaid, because the household income you provided of \$17,472.00 was over the allowable income limit of \$16,105.00.

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On November 10, 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 to submit supporting evidence. On November 10, 2014 the Marketplace's Appeals Unit received your supporting documentation, which included three weeks of paystubs/earnings statements from your employment with [REDACTED]. Your evidence was marked collectively as Appellant's Exhibit A and incorporated into the record. The record was closed on November 25, 2014.

Findings of Fact

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

- 1) You testified that you expect to file your 2014 tax return as Single. Although you live with your mother, you do not expect her to claim you as a dependent, and you do not expect to claim anyone as a dependent for the 2014 tax year.
- 2) You testified that you are currently employed and earn approximately \$346.00 per week before taxes are deducted, due to a raise you were recently awarded.
- 3) According to your September 22, 2014 application, which is supported by the September 2014 paystubs you submitted (Appellant's Exhibit A), at the time of your application you earned \$8.40 per hour and worked 40 hours per week.
- 4) The record contains three paystubs/earnings statements from your employer. According to your paystub issued September 4, 2014, you worked 40 hours at \$8.40 an hour for gross earnings of \$336.00. According to your paystub issued September 11, 2014, you worked 31.75 hours at \$8.40 an hour and received 8 hours of holiday pay at \$8.40 an hour for gross earnings of \$333.90. And according to your paystub issued September 18, 2014, you worked 40 hours at \$8.40 an hour for gross earnings of \$336.00 (Appellant's Exhibit A).
- 5) All three of your earnings statements show your hire date with your employer as October 7, 2013 (Appellant's Exhibit A).
- 6) You currently reside in Broome County.
- 7) You testified that you cannot afford an insurance premium on your current 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), 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 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 FPL, the expected contribution is between 4.00% and 6.03% 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

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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 his maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than his 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 (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 (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 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 QHP. Such an exemption may be granted if that person can show that he 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 QHP (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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit of up to \$342.00 per month.

In the application that was submitted on September 22, 2014, you attested to an expected yearly income of \$17,472.00. This income was based on a rate of \$8.40 per hour, working 40 hours per week. The eligibility determination relied upon that information.

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

You reside in Broome County, where the second lowest cost silver plan available for 2014 for an individual through the Marketplace costs \$401.40 per month.

An annual income of \$17,472.00 is 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 \$59.55 per month.

The maximum amount of advance premium tax credit (APTC) that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$401.40 per month) minus your expected contribution (\$59.55 per month), which equals \$341.85 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$342.00 per month.

Cost-sharing reductions (CSR) 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 CSR.

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 \$17,472.00 is 149.72% 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 23, 2014, determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$342.00 per month, eligible for CSR, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

Additional evidence provided on appeal indicates that your income for the month of September 2014 did not accurately reflect your standard monthly income. According to the paystubs you provided, you earned \$336.00 on September 4, 2014, \$333.90 on September 11, 2014, and \$336.00 on September 18, 2014. It is evident that you are paid weekly on Thursdays, however the Marketplace did not receive any other evidence of your earnings for the final pay period in September 2014, which would have been September 25, 2014. However, it can be inferred through your September 22, 2014 application, your testimony, and supporting evidence that you earned \$336.00 for the final pay period in September 2014, based on a rate of \$8.40 per hour, working 40 hours per week. Therefore, the credible evidence of record indicates that you earned \$1,341.90 in September 2014.

This is also consistent with your testimony on November 10, 2014, that at the time of the hearing you were earning \$346.00 per week due to a recent raise you were awarded. This is supported by the record that your one year anniversary at your employer was on October 7, 2014 (Appellant's Exhibit A).

Since the record suggests that the Marketplace determined your eligibility by expected annual income but not by current monthly income, the case is returned to the Marketplace for a redetermination of financial eligibility using an income of \$1,341.90 for the month of September 2014.

Therefore, the case is returned to the Marketplace to redetermine eligibility for financial assistance based on a one-person household with a September 2014 income of \$1,341.90.

Decision

The September 23, 2014 eligibility determination is AFFIRMED.

The case is returned to the Marketplace for redetermination of your eligibility for financial assistance, based on a one-person household with a September 2014 income of \$1,341.90

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 15, 2015

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 \$342.00 per month.

However, it does direct the Marketplace to redetermine your eligibility for financial assistance, taking into account the additional information you provided during and after your hearing. The Marketplace will issue another notice after it redetermines your eligibility.

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 23, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$342.00 per month.

However, it does direct the Marketplace to redetermine your eligibility for financial assistance, taking into account the additional information you provided during and after your hearing.

The case is returned to the Marketplace for redetermination of your eligibility for financial assistance, based on a one-person household with a September 2014 income of \$1,341.90

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]