



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

Notice of Decision

Decision Date: January 23, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001064

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

Dear [REDACTED]

On November 13, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 8, 2014 and October 17, 2014 preliminary determinations.

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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you were ineligible for an advance premium tax credit, cost-sharing reductions, and Medicaid as of October 8, 2014 and October 17, 2014?

Procedural History

On October 8, 2014, the Marketplace received your initial application for health insurance and made a preliminary determination that, with a household income of \$65,000.00, you were eligible to enroll in a qualified health plan without financial assistance.

On October 17, 2014, you resubmitted your application and the Marketplace made a preliminary redetermination that, with a household income of \$65,000.00, you were eligible to enroll in a qualified health plan without financial assistance.

On October 27, 2014, you spoke with the Marketplace's Account Review unit and appealed the October 8, 2014 and October 17, 2014 preliminary determinations.

On November 13, 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 for you to submit an updated copy of your Unemployment Insurance Official Record of Benefit Payment History reflecting all benefits received during October 2014, as directed by the Hearing Officer. The record

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was to be closed 15 days after the hearing date, or upon the receipt of the above referenced document, whichever occurred earlier.

On November 13, 2014, shortly after the hearing concluded, you provided the above referenced document to the Appeals Unit through your Marketplace online account. As a result, the record was closed on November 13, 2014.

On December 2, 2014, the Marketplace issued notices of eligibility determination on the October 8, 2014 and October 17, 2014 applications. The notices confirmed that you were eligible to enroll in a qualified health plan but were ineligible for an advance premium tax credit, cost-sharing reductions, and Medicaid.

Findings of Fact

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

- 1) You testified that you are not married and expect to file your 2014 U.S. Income Tax return as “single” and claim no dependents.
- 2) You are seeking health insurance through the Marketplace for just yourself.
- 3) You reside in Westchester County, New York.
- 4) You testified that you were employed by [REDACTED] until your position ended on April 16, 2014. During 2014, you earned approximately \$16,154.00 from [REDACTED].
- 5) You testified that, while you were employed by [REDACTED], you were also employed by [REDACTED]. That position ended on April 14, 2014; you earned approximately \$24,080.00 from [REDACTED] during 2014.
- 6) You testified that you filed a claim for unemployment benefits on or about May 5, 2014 and began receiving benefits of \$405.00 per week.
- 7) You testified that on July 7, 2014, you found employment with [REDACTED] and that you remained employed until September 4, 2014. You earned approximately \$14,736.00 at [REDACTED] and did not claim unemployment benefits while you were working.

- 8) You testified that your unemployment benefits resumed on October 3, 2014 and that your weekly rate increased from \$405.00 to \$420.00 on October 16, 2014.
- 9) The record contains a screen print from your Official Record of Benefit Payment History at Unemployment Insurance Benefits Online with transactions through November 13, 2014. It indicates that after your waiting week (week ending May 11, 2014), you received two payments during May, four payments during June, and one payment during July, each for \$405.00. After a gap of three months, you received seven payments during October, four at the \$405.00 rate and three at \$420.00.
- 10) You testified that you expected your November 2014 household income would consist solely of unemployment benefits. The last transaction in your history is for a \$420.00 payment released on Tuesday, November 4, 2014.
- 11) You selected an EmblemHealth Select Care Bronze plan on October 17, 2014, with such coverage to begin on December 1, 2014.

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 applicable 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)).

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 October 8, 2014 and October 17, 2014 applications, 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 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)).

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), 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 October 8, 2014 and October 17, 2014 applications, that was the 2014 FPL, which is \$11,670.00 for a one-person household, or \$972.50 per month (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

You submitted applications for health insurance on October 8, 2014 and October 17, 2014, and the Marketplace made preliminary determinations on both applications with corresponding notices issued on December 2, 2014.

The first issue is whether the Marketplace properly found you ineligible for an advance premium tax credit (APTC) as of October 8, 2014 and October 17, 2014.

In your October 8, 2014 and October 17, 2014 applications, you attested to expected annual income of \$65,500.00, and the eligibility determination relied upon that information.

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

The APTC is available to a person who is eligible to enroll in a qualified health plan and expects to have a household income no greater than 400% of the Federal Poverty Level (FPL). An annual income of \$65,500.00 is 570.06% of the 2013 FPL for a one-person household. Since, at 570.06% of the FPL, your household income is above the APTC income limit, the Marketplace properly found that you were not eligible for APTC.

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 \$65,500.00 is 570.06% of the 2013 FPL, the Marketplace correctly found you to be ineligible 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 \$65,500.00 is 561.27% 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.

However, at the hearing you testified that your 2014 expected annual household income no longer reflects your current income situation and that you would like your financial eligibility to be reconsidered.

You credibly testified that, as of your October 8, 2014 and October 17, 2014 applications, your expected income for 2014 was \$65,500.00, which consisted of (1) \$16,154.00 in income received from [REDACTED], (2) \$24,080.00 in income received from [REDACTED], (3) \$17,736.00 in income received from [REDACTED], and (4) \$10,530.00 (\$405.00 x 26 weeks) in expected unemployment benefits.

As of November 4, 2014, you had received \$6,135.00 in unemployment benefits, and your weekly benefit rate had increased to \$420.00. Assuming that you continued to receive these weekly payments, the most you would have received in unemployment benefits in 2014 would be \$9,495.00, resulting in total earnings in 2014 of \$67,465.00. Since this figure is higher than the income given in your applications, a determination made on this expected annual income would also find you ineligible for financial assistance.

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 \$1,342.05 per month.

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According to your November 13, 2014 Official Record of Benefit Payment History, you received seven unemployment benefits payments during October, four payments of \$405.00 and three payments of \$420.00, for a total of \$2,880.00. You credibly testified that the only income you expected during November was \$1,680.00 in unemployment benefits. Since your income was higher than \$1,342.05 each month, you did not qualify for Medicaid on the basis of monthly income during October 2014 or November 2014.

Decision

The December 2, 2014 eligibility determinations, and the October 8, 2014 and October 17, 2014 preliminary determinations on which they are based, are AFFIRMED.

Effective Date of this Decision: January 23, 2015

How this Decision Affects Your Eligibility

You remain eligible to enroll in a qualified health plan through the Marketplace without financial assistance.

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

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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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 2, 2014 eligibility determinations, and the October 8, 2014 and October 17, 2014 preliminary determinations on which they are based, are **AFFIRMED**.

You remain eligible to enroll in a qualified health plan through the Marketplace without financial assistance.

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]
[REDACTED]