



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

Notice of Decision

Decision Date: April 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001175

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED] [REDACTED]

On January 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 12, 2014, preliminary eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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).

This page intentionally left blank.



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

Decision

Decision Date: April 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001175

[REDACTED]
[REDACTED]
[REDACTED]

Issues

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

Did the Marketplace properly determine that [REDACTED] and [REDACTED] were eligible for Medicaid as of December 12, 2014?

Did the Marketplace properly determine that [REDACTED] and [REDACTED] are not eligible for advance premium tax credits?

Procedural History

On October 18, 2014, the Marketplace sent you a notice to renew your NY State of Health coverage.

On November 16, 2014, the Marketplace prepared a preliminary eligibility determination stating that you and your spouse, [REDACTED], qualify to buy a health plan at full cost from NY State of Health. The determination states that you do not qualify for Medicaid, Child Health Plus, Advance Premium Tax Credits, or Cost-Sharing Reductions based on information from state and federal data sources.

On November 21, 2014, you modified your Marketplace application on three separate occasions. The Marketplace prepared three preliminary eligibility determinations based on your modifications. The first determination stated that an eligibility determination will not be made until additional information is provided. The second determination stated that you and your spouse are eligible for Medicaid. The third determination stated that you and your spouse are eligible to enroll in a qualified health plan through the Marketplace.

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).

On November 22, 2014, the Marketplace issued an eligibility determination notice stating that you and your spouse may be eligible for health insurance through New York State of Health but more information is needed to make a determination.

On December 9, 2014, you faxed a statement, dated December 8, 2014, signed by you and your wife, to New York State of Health's Verification Unit. This statement indicates that you do not currently have a job, and that your 2014 income consists of miscellaneous sales and interest income which you expect to amount to between \$14,000 and \$17,000. This statement has been marked into evidence as Appellant's Exhibit A.

On December 12, 2014, you reapplied for health insurance through the Marketplace. The Marketplace prepared a preliminary eligibility determination stating that you and your spouse are eligible for Medicaid.

On that same day you spoke with the Marketplace Account Review Unit and appealed that determination.

On January 12, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself and your spouse.
2. You plan on filing a 2015 federal income tax return with the tax status of married filing jointly and will not claim any dependents on that return.
3. According to your November 21, 2014, Marketplace application, you attested that your 2015 expected household income would be \$0.00, the same as last year.
4. You testified that you and your spouse were unemployed in 2014.
5. Your only income for 2014 is from miscellaneous sales and interest income from investments expected to be between \$14,000.00 and \$17,000.00 in 2014 (Appellant's Exhibit A).

6. You testified that you are not certain what your December 2014 monthly income was, but dividing your anticipated 2014 household income by twelve is an accurate approximation of your monthly income.
7. You prefer to be eligible for tax credits to help pay for your health insurance, rather than be eligible for Medicaid (Appellant Exhibit A).

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

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 § 435.911(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 federal poverty level (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 \$15,730.00 for a two-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 by the US Department of Health and Human Services, March 19, 2014).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve-month period. This twelve-month period is referred to as “continuous coverage,” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

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).

Advance Premium Tax Credit:

The advance premium tax credit 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; (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)).

Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f); 45 CFR § 155.305(f)(1)(B)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, these government-sponsored plans provide minimum essential coverage:

- 1) the Medicare program under part A of title XVIII of the Social Security Act [26 USCS §§ 1395c et seq.]
- 2) the Medicaid program under title XIX of the Social Security Act [26 USCS §§ 1396 et seq.]
- 3) the CHIP program under title XXI of the Social Security Act [26 USCS §§ 1397aa et seq.]
- 4) medical coverage under chapter 55 of title 10, United States Code [10 USCS §§ 1071 et seq.], including coverage under the TRICARE program
- 5) a health care program under chapter 17 or 18 of title 38, United States Code [38 USCS §§ 1701 et seq. or 1801 et seq.], as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary
- 6) a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers)
- 7) the Nonappropriated Fund Health Benefits Program of the Department of Defense, established under section 349 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1587 note)

(26 USC § 5000A(F)(1)(A)).

Legal Analysis

Currently at issue is the question of (1) whether the Marketplace correctly found you and your spouse eligible for Medicaid as of December 12, 2014 and, based on such a finding, (2) whether you and your spouse are eligible for advance premium tax credits (APTC).

The only Medicaid eligibility requirement currently at issue is the income requirement.

In the application that was submitted on December 12, 2014, you attested to an expected yearly income of \$0.00, and the eligibility determination relied upon that information.

According to the record you are a two-person household. You plan on filing a 2015 federal income tax return with the tax status of married filing jointly, with your spouse, and will not claim any dependents on that return.

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 (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size. On the date of your December 12, 2014, application, the relevant FPL was \$15,730.00 for a two-person household.

Since \$0.00 is 0.00% of the 2014 FPL, the Marketplace properly found you to be eligible for Medicaid based on the expected annual income information provided in your application.

However, additional evidence provided on appeal indicates that the information contained in your application does not reflect your current income situation. You testified and provided a statement that you expect between \$14,000.00 to \$17,000.00 from miscellaneous sales and interest income from investments in 2014 (Appellant Exhibit A). You also testified that you are not certain what your December 2014 monthly income was, but dividing your anticipated 2014 household income by twelve is an accurate approximation of your monthly income.

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 \$1,809.00 per month. Since dividing your maximum anticipated income for 2014 by twelve

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).

(\$17,000.00/12= \$1,416.67) does not exceed the monthly income limit for Medicaid, you do qualify for Medicaid.

The second issue under review is whether the Marketplace correctly found that you were not eligible for APTC to help pay for the cost of health insurance.

To be eligible for APTC, a person must not be eligible for minimum essential coverage outside of the Marketplace. Minimum essential coverage includes Medicaid health insurance coverage through New York State of Health. Based on the Marketplace's December 12, 2014, preliminary eligibility determination, you and your spouse are eligible for Medicaid through New York State of Health.

Decision

The December 12, 2014 preliminary eligibility determination is **AFFIRMED**.

Effective Date of this Decision: April 7, 2015

How this Decision Affects Your Eligibility

You remain eligible for Medicaid or to purchase a qualified health plan through the Marketplace at full cost.

You are not eligible for financial assistance because the record shows that you are eligible for Medicaid through the Marketplace.

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

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).

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 December 12, 2014 preliminary eligibility determination is **AFFIRMED**.

You remain eligible for Medicaid or to purchase a qualified health plan through the Marketplace at full cost.

You are not eligible for financial assistance because the record shows that you are eligible for Medicaid through the Marketplace.

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]