



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

## Notice of Decision

Decision Date: September 11, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000688

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

Dear [REDACTED],

On June 27, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 23, 2014 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 the 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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### Decision

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[REDACTED]

### Issue

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

Did the Marketplace properly determine that [REDACTED] was not eligible for Medicaid coverage or an advance premium tax credit as of May 23, 2014?

### Procedural History

You initially applied for health insurance through the Marketplace on May 23, 2014 with a household income of \$18,000.00.

On May 23, 2014, you reapplied with a household income of \$17,420.00, and the Marketplace made a preliminary determination that you were not eligible for financial assistance.

On May 24, 2014, the Marketplace issued a notice based on the May 23, 2014 eligibility determination. It said that you are eligible to enroll in a qualified health plan (QHP) through the New York State of Health but you are not eligible to receive tax credits to help pay for the cost of your insurance because you are not a joint tax filer. It also said that you are not eligible for cost sharing reductions (CSR).

On May 23, 2014, you spoke with the Marketplace’s Customer Service Unit and appealed the preliminary determination.

On June 27, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, translation services were provided by Spanish Interpreter [REDACTED].

The record was developed during the hearing and left open for 15 days to give you time to submit income documents. On June 27, 2014, the Appeals Unit received a fax from you with additional paystub information attached, and it has been made part of the record. The record was closed at the end of the 15-day period.

## **Findings of Fact**

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

- 1) You are currently married.
- 2) You have been separated from your spouse since approximately 2011. Your spouse resides in Miami, Florida, with your child, who is 9 years old.
- 3) You have been unable to obtain a divorce or legal separation from your spouse because you cannot afford one.
- 4) You live in a household of one person and do not anticipate claiming anyone as a dependent for the 2014 tax year. Your spouse is claiming your child in her tax return for the upcoming tax year.
- 5) You testified to an income of approximately \$6,000.00 from January 2014 to the date of the hearing. You expect to make approximately \$12,000.00 during the 2014 tax year due to a decrease in hours worked.
- 6) You anticipate filing your 2014 tax return as "Married Filing Separate."
- 7) You testified that you cannot afford a health insurance premium as you do not make enough money.
- 8) You testified that a subsequent eligibility determination has been made in your account and that you were contacted by a Customer Service Unit representative who informed you that in order to make a full determination in your case, you would need to submit income verification documentation. You attested that you submitted four paystubs via fax to the Marketplace on June 26, 2014. At the time

of the hearing on June 27, 2014, those documents were not viewable in your Marketplace account.

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

## **Applicable Law and Regulations**

An individual is eligible for enrollment in Medicaid when he or she meets the non-financial criteria and has a household income that is at or below the applicable Medicaid MAGI-based income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

Medicaid is available to an individual who has a modified adjusted gross household income under 138% of the 2014 federal poverty level (42 CFR § 435.218). One hundred percent of the 2014 federal poverty level for one person is \$11,670. For a household of one, the maximum allowable income to be eligible for Medicaid is \$16,105.00 (138% of the 2014 FPL), which is \$1,343.00 per month

An advance premium tax credit is available to a tax filer who expects to (1) have a household income of at least 100% but not more than 400% of the Federal Poverty Level (FPL) and (2) claim a personal exemption deduction on his or her tax return for an applicant who is eligible to enroll in a qualified health plan and can obtain minimum essential coverage only through the individual Marketplace (45 CFR § 155.305(f); 26 CFR § 1.36B-2).

Generally, a taxpayer who is married must file a joint return with his or her spouse to be eligible for an advance premium tax credit (45 CFR § 155.310(d); 26 CFR § 1.36B-2).

However, an individual will be treated as “not married” at the close of the taxable year if the individual:

1. Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
2. Meets all of the following criteria:
  - files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child; and
  - pays more than one half of the cost of keeping up his/her home for the tax year; and
  - his/her spouse is not a member of the household during the last 6 months of the taxable year (26 USC § 7703(a); 26 USC § 7703(b)).

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## **Legal Analysis**

The Medicaid eligibility determination made on May 23, 2014 was based on an anticipated household income of \$17,420.00 provided by you. Since that amount is over the allowable income limit of \$16,105.00 the determination properly found that you were not eligible for Medicaid at that time.

In general, to qualify for an advanced premium tax credit, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the documents in the record and your testimony at the hearing, you are not divorced or legally separated from your spouse and do not plan to file a joint tax return with your spouse for the 2014 tax year. Also, your household is not your daughter’s primary home, and there is no evidence in the record that your spouse will be a member of your household during the last 6 months of the 2014 tax year.

Since you are married and the record does not support a finding that you qualify to be treated as “not married” for tax purposes, you are not eligible for an advance premium tax credit through the Marketplace.

Since the additional income documentation you provided to the Appeals Unit on June 27, 2014 is for a time period after the determination under appeal, it is not addressed in this decision.

However it is noted that you provided the same additional income documentation to the Marketplace on June 24, 2014. The Marketplace considered that additional income documentation to be a new application. A notice was issued on June 25, 2014 to tell you that more information would be needed from you before a determination could be made on that application.

## **Decision**

The May 24, 2014 eligibility determination is **AFFIRMED**.

**Effective Date of this Decision:** September 11, 2014

## **How this Decision Affects Your Eligibility**

As of May 24, 2014, you were not eligible for Medicaid coverage or an advance premium tax credit (APTC).

However it is noted that you provided additional income documentation to the Marketplace on June 24, 2014. The Marketplace considered that additional income documentation to be a new application. A notice was issued on June 25, 2014 to tell you that more information would be needed from you before a determination could be made on that application.

## **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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520[c]).

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

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 for assistance.

## **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 May 24, 2014 eligibility determination is **AFFIRMED**.

As of May 24, 2014, you were not eligible for Medicaid coverage or an advance premium tax credit (APTC).

However it is noted that you provided additional income documentation to the Marketplace on June 24, 2014. The Marketplace considered that additional income documentation to be a new application. A notice was issued on June 25, 2014 to tell you that more information would be needed from you before a determination could be made on that application.

## **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]