



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

## Notice of Decision

Decision Date: October 20, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000708

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On August 8, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 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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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000708

[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 [REDACTED] is not eligible for Medicaid through the Marketplace as stated in the determination dated May 30, 2014?

## Procedural History

The Marketplace received your application for health insurance on May 29, 2014.

On May 30, 2014, the Marketplace issued an eligibility determination in your case. It said you are eligible to receive up to \$362.00 monthly of advance premium tax credit (APTC) and to get cost-sharing reductions (CSR) as long as you are enrolled in a silver level qualified health plan (NYSOH Exhibit 1).

On June 4, 2014, a representative from Affinity Health Plan faxed a one-page letter to the Marketplace's Customer Service unit appealing that determination and requesting that you be enrolled in Medicaid (Appellant's Exhibit A).

The Marketplace also issued several eligibility redeterminations that had the same result as the May 30, 2014 eligibility determination.

On August 8, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. A Hindi interpreter [REDACTED] helped by translating between Hindi and English. You agreed to waive formal notice of the telephone hearing through sworn testimony. The record was developed during the hearing. You were disconnected or hung up toward the end of the hearing so the Hearing

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Officer tried to call you back but was sent directly to voicemail. Therefore, the record was closed and the hearing was ended.

## **Findings of Fact**

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

- 1) You are not a United States Citizen, but have been lawfully present for four years. You have a green card (Marketplace Application; Testimony of 8/8/14).
- 2) You live with your wife in Queens County, New York (Marketplace Account).
- 3) You plan on filing your 2014 taxes using the tax status of married filing jointly (Marketplace Application; Testimony of 8/8/14).
- 4) You have no dependents (Marketplace Application; Testimony of 8/8/14).
- 5) Your expected income for 2014 is \$4,950.00 (Marketplace Application).
- 6) You are 67 years old, not a parent or caretaker relative of a dependent child, and not blind or disabled (Marketplace Application; Testimony of 8/8/14).
- 7) You want Medicaid or Medicare, and not APTC and CSR (Testimony of 8/8/14).
- 8) You would like help with enrolling in either Medicaid or Medicare but do not know how to get it or where to go (Testimony of 8/8/14).

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

## **Applicable Law and Regulations**

There are two primary places to apply for Medicaid in New York State, the New York State of Health Marketplace and your Local Department of Social Services (LDSS). Generally, adults aged 19 to 64 apply for Medicaid through the Marketplace, and adults over the age of 65 who are not parents or caretaker relatives apply for Medicaid through their Local Department of Social Services.

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

The first step in identifying whether an applicant is eligible for MAGI-Medicaid through the Marketplace is determining if he or she meets certain nonfinancial criteria. In general, to qualify for MAGI-Medicaid through the Marketplace you must be:

- An adult aged 19-64, not eligible for Medicare;
- A pregnant woman or infant;
- A child aged 1-18; or
- A parent or caretaker relative

If you fall into one of these categories, then the Marketplace determines your eligibility for Medicaid using Modified Adjusted Gross Income (MAGI) rules (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If you do not fall into one of these categories you may be eligible for non MAGI-Medicaid coverage (N.Y. Soc. Serv. Law § 366(1)(c)).

## **Legal Analysis**

According to the information on your Marketplace application and in your testimony, you are over age 65 years old, and you are not a parent or caretaker relative of a dependent child. Therefore, you do not meet the nonfinancial requirements in the law to be eligible for MAGI-Medicaid through the Marketplace.

The Marketplace does not have the authority to decide if you qualify for non-MAGI Medicaid. Since you may be eligible for Medicaid on a non-MAGI basis, the Marketplace will refer your case to the New York City Human Resources Administration for consideration.

For information about Medicare eligibility requirements for individuals who are not U.S. citizens, please contact the Social Security Office in your area or call 1-800-MEDICARE.

## **Decision**

This May 30, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** October 20, 2014

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

You do not qualify for MAGI-based Medicaid through the New York State of Health Marketplace.

You may qualify for Medicaid on a non-MAGI financial basis. Your case will be referred to the New York City Human Resources Administration for consideration.

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

## **Summary**

This May 30, 2014 eligibility determination is AFFIRMED.

You do not qualify for MAGI-based Medicaid through the New York State of Health Marketplace.

You may qualify for Medicaid on a non-MAGI financial basis. Your case will be referred to the New York City Human Resources Administration for consideration.

## **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]