



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

## Notice of Decision

Decision Date: September 29, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000735

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

Dear [REDACTED],

On July 22, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 27, 2014 eligibility determination.

The attached 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 letter.

### 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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[REDACTED]  
[REDACTED]  
[REDACTED]  
[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] is eligible for \$221.00 monthly of advance premium tax credit and for cost-sharing reductions as of February 27, 2014?

## Procedural History

The Marketplace received your application on February 26, 2014.

On February 27, 2014, the Marketplace issued an eligibility determination in your case. It said you are eligible to receive up to \$221.00 monthly of advance premium tax credit (APTC) and to get cost-sharing reductions (CSR) provided you are enrolled in a silver level qualified health plan (QHP). You chose to enroll in Silver Plus – S2, with coverage beginning on April 1, 2014.

On June 30, 2014, you contacted the Marketplace to request an exemption from the shared responsibility payment because you were experiencing a hardship and were unable to pay your share of the monthly premium for your health insurance.

The Marketplace was not able to assist you, so you requested an appeal.

On July 22, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You have three children who live with you in Kings County and you plan on claiming all of them as tax dependents on your 2014 tax return (Testimony of 7/22/2014; Marketplace Account).
- 2) Your tax filing status for 2014 remains as head of household with qualifying individuals (Testimony of 7//22/2014; Marketplace Application).
- 3) Your expected income for 2014 is \$30,000.00 (Testimony of 7/22/2014; Marketplace Application).
- 4) Only you and your twelve-year old son were seeking insurance and were the only two people listed on your Marketplace application (Testimony of 7//22/2014; Marketplace Application).
- 5) You were not aware that you should have listed your other two children as tax dependents and that not doing so affected your eligibility for tax credits and/or other programs (Testimony of 7//22/2014).
- 6) Your twelve-year old son is covered under CHP. You are able to make the \$9.00 monthly premiums and are satisfied with the health plan (Testimony of 7//22/2014; Marketplace Application).
- 7) You are covered under Silver Plus – S2, with a monthly premium of \$374.42 less APTC of \$221.00, leaving your monthly share of \$153.42 (Testimony of 7//22/2014; Marketplace Account - Plans).
- 8) You used your insurance when you went to the doctor in May 2014 (Testimony of 7/22/2014).
- 9) You stated you have not paid your share of the premium for about three months because you cannot afford to due to budget constraints such as the cost of rent, utilities, monthly essential living needs, and child care (Testimony of 7//22/2014).

10) You recently received a bill from your health insurer for over \$400.00 in unpaid premiums, but you have not received a notice of cancellation of your coverage yet (Testimony of 7/22/2014).

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 four people is \$23,850.00. For a household of four, the maximum allowable income to be eligible for Medicaid is \$32,913.00 (138% of the 2014 FPL).

A person may qualify for an advance premium tax credit (APTC) if her household income is between 138% and 400% of the 2013 FPL (45 CFR § 155.305(f)). Since 100% of the 2013 FPL for a household of four people was \$23,550.00, a person in a household of four may qualify for APTC if the household income is between \$32,499.00 (138% of the 2013 FPL) and \$94,200.00 (400% of the 2013 FPL).

People who receive or are eligible for Medicaid are not eligible for APTC since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

Cost-sharing reductions (CSR) are available only to a person who (1) is eligible to enroll in a qualified health plan (QHP) through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (3) is expected to have a household income that does not exceed 250 percent of the Federal Poverty Level (FPL) for the plan year coverage is requested (2013) and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a Qualified Health Plan (QHP). Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in

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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 qualified health plan (45 CFR § 155.605(a), (g)).

NY State of Health has deferred 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**

Your household size for purposes of this analysis is four, which includes you and your three dependent children.

Your reported household size at the time you applied and were found eligible for APTC at \$221.00 monthly was two, which included you and your twelve-year old son. Your household's reported income was \$30,000.00 or 193.42% of the FPL level of \$15,510 for a two-person household. At this level, your monthly contribution for the silver level plan you chose was \$153.42. Based on the information on your application at the time of the February 27, 2014 eligibility determination, the Marketplace determined the amount of APTC and your monthly shared responsibility of the premium once you chose a plan.

However, at the telephone hearing on July 22, 2014, the Hearing Officer learned that you plan on claiming three dependent children on your 2014 tax return. You also credibly testified that you expect that your 2014 household income will remain at \$30,000.00.

Since the Marketplace now has the right household size (4 people) and the expected household income for 2014 of \$30,000.00, it will look at your application again, figure out how much advance premium tax credit you can get or see if you are eligible for another program, and issue a new eligibility determination.

Therefore, your case is returned to the Marketplace for redetermination of your eligibility based upon a household of 4 people and an anticipated 2014 household income of \$30,000.00 for the year.

## **Decision**

The eligibility determination of February 27, 2014 is RESCINDED insofar as the household size was erroneously reported as two instead of the proper household size of four.

Based on new evidence provided at the July 22, 2014 hearing, the case is returned to the Marketplace for redetermination of eligibility based on a household size of 4 people and 2014 expected income of \$30,000.00 for the year.

The Marketplace will redetermine your eligibility and issue a new notice of eligibility redetermination if it has not already done so.

**Effective Date of this Decision:** September 29, 2014

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

This Decision does not decide your final eligibility.

It returns your case to the Marketplace to redetermine your eligibility based on the corrected household size information that you provided to the Hearing Officer.

The Marketplace will redetermine your eligibility and issue a new notice of eligibility determination, if it has not already done so.

## **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

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- 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 eligibility determination of February 27, 2014 is RESCINDED.

Based on new evidence provided at the July 22, 2014 hearing, the case is REMANDED to the Marketplace, which will redetermine your eligibility based on a household size of 4 people and 2014 expected income of \$30,000.00.

The Marketplace will redetermine your eligibility and issue a new notice of eligibility redetermination, if it has not already done so.

### **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]