



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

## Notice of Decision

Decision Date: October 22, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000760

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]

On September 5, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 31, 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).

This page intentionally left blank.



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

## Decision

Decision Date: October 22, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000760

[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] was eligible for \$316.00 per month in advance premium tax credit as of July 25, 2014?

Did the Marketplace properly determine that [REDACTED] was not eligible for Medicaid as of July 25, 2014?

## Procedural History

The Marketplace received your application for health insurance on July 25, 2014. That same day, a preliminary eligibility determination was rendered which stated that you were eligible for \$316.00 per month in advance premium tax credit (APTC).

Also on that same day, you spoke to the Marketplace's Customer Service Unit and appealed the determination.

On July 26, 2014, the Marketplace issued a notice detailing the preliminary eligibility determination that had been made on your July 25, 2014 application. That notice states that you are eligible to enroll in a qualified health plan (QHP) and, at an attested annual household income of \$18,499.92, are entitled to up to \$316.00 per month in APTC. The notice also states that you are not eligible for Medicaid because the household income you provided of \$18,499.92 is over the allowable income limit of \$16,105.00.

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 August 9, 2014, the Marketplace issued an eligibility redetermination in your case that was the same as your July 26, 2014 eligibility determination.

On September 5, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was left open for 15 days to allow you to submit supporting evidence. The Marketplace's Appeals Unit received your supporting unemployment benefit documentation on September 9, 2014. The Marketplace's Appeals Unit also received the supporting documentation of your [REDACTED] statement screenshot on September 15, 2014. Your evidence was marked and incorporated into the record. The record was closed on September 20, 2014.

## **Findings of Fact**

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

- 1) You testified that you expect to file your 2014 tax return as Single and will claim no dependents on that tax return. You also do not expect anyone to claim you as a dependent.
- 2) You testified that your last day of employment at your job was June 30, 2014 because your employment contract expired and was not renewed.
- 3) In your Marketplace application, you attested to earning \$18,499.92 between January 1, 2014 and June 30, 2014.
- 4) You testified that you applied for unemployment benefits during August 2014. Your application was approved and you began receiving benefits on August 7, 2014.
- 5) You testified that between your last day of employment on June 30, 2014 and your application for unemployment benefits in August 2014, you did not have any source of income. You further testified that for the month of July, you received \$0.00 in income.
- 6) You testified and provided evidence that you were found eligible for \$360.00 per week in unemployment benefits. This is the amount you receive weekly before taxes are deducted.
- 8) You testified and provided evidence that you will receive unemployment benefits weekly, unless you are able to find new employment. The total income you expect to receive in unemployment benefits during 2014 is \$9,360.00.

- 9) You testified that since June 30, 2014 the only income you have received is from unemployment benefits.
- 10) You currently reside in Richmond County.
- 11) You testified that you cannot afford an insurance premium on your current monthly income. You would like your eligibility for Medicaid to be considered.

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

## **Applicable Law and Regulations**

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), 435.603(d)(4)).

The maximum amount of advance premium tax credit that can be authorized equals

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution is set by Federal law at 2% to 9.5% of annual household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 150% but less than 200% of the 2013 federal poverty level, the expected contribution is between 4.00% and 6.30% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

For a one-person household, the 2013 federal poverty level is \$11,490.00 (78 Fed Reg 5182, 5183 (2013)).

An individual is eligible for enrollment in Medicaid when they meet the nonfinancial criteria and have a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)).

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)).

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).

Once an individual becomes eligible for Medicaid, that person is not eligible for APTC (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(2)).

## **Legal Analysis**

According to the record, you are the only member of your tax household. You expect to file as single on your 2014 tax return, do not expect to claim any dependents, and do not expect anyone to claim you as a dependent.

You reside in Richmond County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$385.19 per month.

The July 25, 2014 eligibility determination was based on an annual household income of \$18,499.72, which you testified is the amount of income you earned from your job up until the last date of your employment on June 30, 2014. An annual household income of \$18,499.72 equals 161.01% of the 2013 federal poverty level for a one-person household. At 161.01% of the federal poverty level, the expected contribution to the cost of the health insurance premium is 4.51% of income, or \$69.47 per month.

The maximum amount of advance premium tax credit that can be awarded equals the cost of the second lowest cost silver plan in your county (\$385.19 per

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).

month) minus your expected contribution (\$69.47 per month), which equals \$315.72 per month. Therefore, calculated to the nearest dollar, the Marketplace correctly computed your advance premium tax credit to be \$316.00 per month.

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

You credibly testified that you lost your job on June 30, 2014 but did not apply for unemployment benefits until August 2014, at which time you were determined eligible for benefits. You further testified that for the month of July, you received no income and that the only income you now receive is through your unemployment benefits that began on August 7, 2014. Therefore, your monthly income for July is \$0.00 which puts you at 0.00% of the federal poverty level.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Since the record suggests that the Marketplace calculated your July 25, 2014 eligibility by expected annual income but not by monthly income, the case should be returned to the Marketplace for an eligibility determination on monthly income.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a one-person household with a July 2014 income of \$0.00.

## **Decision**

The July 26, 2014 eligibility determination is MODIFIED to state that, at an attested annual household income of \$18,499.92, you are entitled to up to \$316.00 per month in advance premium tax credit as long as you are not eligible for Medicaid.

The case is REMANDED to the Marketplace for redetermination of the appellant's Medicaid eligibility as of July 25, 2014 with a total income of \$0.00 for the month of July 2014.

**Effective Date of this Decision:** October 22, 2014

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

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, taking into account the additional

information you provided during and after your hearing. The Marketplace will issue another notice after it redetermines your eligibility.

Currently, you remain eligible for an advance premium tax credit of up to \$316.00 per month.

## **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

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).



## **Summary**

The July 26, 2014 eligibility determination is MODIFIED to state that, at an attested annual household income of \$18,499.92, you are entitled to up to \$316.00 per month in advance premium tax credit as long as you are not eligible for Medicaid.

The case is REMANDED to the Marketplace for redetermination of the appellant's Medicaid eligibility as of July 25, 2014 with a total income of \$0.00 for the month of July 2014.

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your Medicaid eligibility, taking into account the additional information you provided during and after your hearing. The Marketplace will issue another notice after it redetermines your eligibility.

## **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]