



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

## Notice of Decision

Decision Date: November 5, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000773

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]

On August 28, 2014, you appeared by telephone at a hearing on your appeal of the 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 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

Decision Date: November 5, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000773

[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, as of July 31, 2014, you were not eligible for either Medicaid or cost-sharing reductions, but were eligible for an advance premium tax credit of up to \$82.00 per month?

## Procedural History

The Marketplace received your application for health insurance on July 30, 2014. That same day, two preliminary eligibility determinations were prepared; the second stated that you were eligible for up to \$82.00 per month in advance premium tax credit (APTC).

On July 30, 2014, you spoke with the Marketplace's Customer Service unit and appealed that determination.

On July 31, 2014, an eligibility determination notice was issued. That notice was consistent with the second preliminary determination that was prepared on July 30, 2014. The notice stated that you were eligible for up to \$82.00 per month in APTC; however, you were not eligible for cost-sharing reductions or Medicaid because your household income was over the income limits for those programs.

On August 28, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days for you to submit evidence as directed by the Hearing Officer. No evidence was received within that time. The record is now closed.

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## Findings of Fact

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

- 1) In your initial application of July 30, 2014, you indicated that your marital status was “separated” and that you intended to file your 2014 income tax return as single.
- 2) Later on July 30, 2014, you modified your application to indicate a marital status of “single.”
- 3) You testified that you plan on filing your 2014 income tax return as single and will claim no dependents on that tax return.
- 4) You currently reside in Bronx County.
- 5) On your application you indicated that your expected yearly income for 2014 was \$35,773.65. Your application indicated that this amount included \$27,000.00 in income from employment, \$10,530.00 in unemployment benefits, and a deduction of \$1,756.35. You also stated on your application that you had lost a job. On August 28, 2014, you testified that the information you submitted on your application was correct.
- 6) You testified that you separated from employment during April 2014.
- 7) You testified that when you lost your job you were given a severance package that included health insurance coverage until July 31, 2014.
- 8) You testified that once your severance package “ran out,” you applied for unemployment benefits.
- 9) You testified that you were found eligible for \$405.00 weekly in unemployment benefits and that you received your first payment on July 30, 2014.
- 10) During your hearing on August 28, 2014, you testified that you could not remember when you received your severance payment or the amount of the payment.
- 11) The Hearing Officer directed you to submit documents from your employer on your separation from employment and severance package and evidence of your unemployment benefits award. The record was held open for 15 days after the hearing to give you time to provide the additional evidence.

12)The Marketplace did not receive any documents from you while the record was held open.

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

## **Applicable Law and Regulations**

### Medicaid Eligibility

Medicaid through the Marketplace can be provided 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 current federal poverty level for the applicable family size (42 CFR §§ 435.911(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 must be 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 Department of Health and Human Services, March 19, 2014).

The 2014 federal poverty level (FPL) is \$11,670 for a one-person household (79 Fed Reg 3593 (2014)).

### Advance Premium Tax Credit (APTC) and Cost Sharing Reduction (CSR)

APTC is available to a person who is eligible to enroll in a qualified health plan (QHP) and:

- 1) expects to have a household income between 138% and 400% of the FPL;
- 2) expects to file a tax return and claim a personal exemption deduction for a person who is eligible to enroll in a QHP; and
- 3) is eligible for minimum essential health insurance coverage only through the individual Marketplace

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(see 45 CFR § 155.305(f); 42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4)).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2). However, a tax filer will be treated as not married at the close of the taxable year if the tax filer is legally separated from his/her spouse under a decree of divorce or of separate maintenance (26 USC § 7703(a)).

The maximum amount of APTC 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 household income (26 USC § 36B(b)(3)(A)).

For household income in the range of at least 300% but less than 400% of the 2013 FPL, the expected contribution is 9.5% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

The 2013 FPL for a one-person household is \$11,490 (78 Fed Reg 5182, 5183 (2013)).

CSRs are available to a person who is eligible to enroll in a QHP and:

- 1) is eligible for APTC,
- 2) has a household income less than 250% of the FPL, and
- 3) enrolls in a silver level health plan

(45 CFR § 155.305(g)).

## **Legal Analysis**

The matters at issue are: (1) whether you are eligible for no-cost medical insurance through Medicaid, (2) whether you are eligible for more advance premium tax credit (APTC) than the \$82.00 approved in the July 31, 2014

eligibility determination, and (3) whether you are eligible for cost-sharing reductions (CSR).

Since you reside by yourself and have no tax dependents, you are in a one-person household for purposes of this decision.

The July 31, 2014 eligibility determination stated that you were not eligible for Medicaid coverage because the income that you provided on your application (\$35,773.65) was over the allowable income limit for Medicaid. Medicaid is available to adults who have a modified adjusted gross income that is at or below 138% of the current federal poverty level (FPL) for the applicable family size. The 2014 FPL for a one-person household is \$11,670.00. Your expected annual income of \$35,773.65 equals 306.65% of that FPL and is too high to qualify for Medicaid.

Since you do not currently receive Medicaid benefits, your financial eligibility should also have been assessed on your current monthly household income. You testified that you received your first unemployment benefits payment of \$405.00 during July. You also testified that you could not recall the amount of your severance payment or the date you received it, and you did not produce relevant evidence as directed by the Hearing Officer. Therefore, the record is not sufficiently developed to permit a determination on your eligibility for Medicaid based on your July income.

The eligibility determination stated that you were eligible for APTC of up to \$82.00 per month.

According to the record, you are the only person in your tax household. On your second application of July 30, 2014, you stated that your marital status is "single." Both the eligibility determination and this decision rely on the accuracy of that information.

You reside in Bronx County, where the lowest cost silver plan that is available through the Marketplace for an individual costs \$365.28 per month.

According to your application your expected 2014 income as of July 30 was \$35,773.65, which is 311.35% of the 2013 FPL for a one-person household. At 311.35% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income or \$283.21 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$365.28 per month) minus your expected contribution (\$283.21 per month), which equals \$82.07 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$82.00 per month.

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Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 311.35% of the FPL, you are not eligible for cost sharing reductions.

Since the eligibility determination correctly stated that, as of July 30, 2014, you were eligible for up to \$82.00 per month of APTC but not eligible for Medicaid or cost-sharing reductions, it is correct and is AFFIRMED.

Your testimony suggests that the income you expect to receive during 2014 may have changed since you submitted your July 30 application. However, since you did not provide testimony or documentary evidence regarding your full income to date, particularly your severance pay, the record does not support redetermination of your eligibility at this time.

## **Decision**

The July 31, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** November 5, 2014

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

Your eligibility has not changed.

As of July 30, 2014 you were eligible for a maximum advance premium tax credit (APTC) of \$82.00 per month but not for Medicaid or cost-sharing reductions.

This decision does not address any eligibility determinations made by the Marketplace after July 30, 2014.

## **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))

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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 July 31, 2014 eligibility determination is AFFIRMED.

Your eligibility has not changed.

As of July 30, 2014 you were eligible for a maximum advance premium tax credit (APTC) of \$82.00 per month but not for Medicaid or cost-sharing reductions.

This decision does not address any eligibility determinations made by the Marketplace after July 30, 2014.

### **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]