



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

## Notice of Decision

Decision Date: September 22, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000799

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

Dear [REDACTED]

On September 8, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 7, 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 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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## Decision

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## Issues

The issues presented for review by the Appeals Unit of the NY State of Health are:

Did the Marketplace properly determine that you and your husband were eligible for \$608.00 per month in advance premium tax credit (APTC) as of August 7, 2014?

Did the Marketplace properly determine that, as of August 7, 2014, you and your husband were eligible for cost sharing reductions (CSR) provided you enrolled in a silver-level health plan?

Did the Marketplace properly determine that that you and your husband were not eligible for Medicaid as of August 7, 2014?

## Procedural History

The Marketplace received your household's original application for health insurance on January 26, 2014.

On January 27, 2014, an eligibility determination was issued which stated that your household was eligible to enroll in a qualified health plan, but that you were not eligible for financial assistance because verification of your income was outstanding and you were enrolled in an "ESI MEC" (Employer Sponsored Insurance – Minimum Essential Coverage) plan.

On July 28, 2014, your application for health insurance was updated. Two notices were issued on July 29, 2014, one of which stated that you and your

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husband were eligible to enroll in a qualified health plan through the Marketplace and to receive up to \$564.00 in APTC per month. You and your husband were also found eligible to receive CSR, provided you enrolled in a silver-level health plan. You and your husband were not eligible for Medicaid because your household income of \$35,932.00 was over the allowable limit of \$27,310.00.

On August 6, 2014, the income information in your household's application for health insurance was updated, to reflect that your husband's income would be \$0. On that day a preliminary eligibility determination was issued which stated that you and your husband were eligible to enroll in a qualified health plan and to receive up to \$608.00 in APTC per month. You and your husband were also found eligible for CSR provided you enrolled in a silver-level health plan.

On August 6, 2014, you spoke with the Marketplace's Customer Service Unit and appealed the preliminary determination.

On August 7, 2014 a notice was issued which was consistent with the preliminary determination of August 6, 2014. The notice also stated that you and your husband were not eligible for Medicaid because your income of \$31,932.85 was over the allowable limit of \$27,310.00.

On September 2, 2014, the income information in your application for health insurance was updated to a total of \$ 39,627.85.

A notice was issued on September 3, 2014, which stated that you and your husband were temporarily eligible to enroll in a qualified health plan and to receive up to \$519.00 in APTC per month. You and your husband were also found eligible to receive CSR provided you enrolled in a silver-level health plan. Additional information regarding proof of income for you and your husband was needed to finalize the determination.

On September 8, 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 time to submit evidence. Later that day, evidence was uploaded to your Marketplace account. The record was then closed.

## **Findings of Fact**

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

- 1) You testified that you and your husband plan on filing your 2014 tax return as married filing jointly and will claim one dependent on that tax return.

- 2) You testified and provided evidence that your last day of employment at your job was July 21, 2014.
- 3) You testified and provided evidence that you received your last check from your job on August 1, 2014. Your gross pay from that check was \$1,069.62.
- 4) You testified and provided evidence that your total household income from January 1, 2014 to August 1, 2014 was \$31,932.85.
- 5) You testified and provided evidence that you applied for unemployment benefits at the end of July.
- 6) You testified and provided evidence that you were found eligible for \$405.00 a week in unemployment benefits. This is the amount you receive weekly before taxes are taken out.
- 7) You testified and provided evidence that you received your first unemployment check on August 18, 2014. Since unemployment checks arrive weekly, you also received a check on August 25, 2014.
- 8) You testified that your husband is not currently employed and does not receive any income.
- 9) You testified that your son is not currently employed and does not receive any income.
- 10) You testified that the only income your household received in the month of August of 2014 was from your job (\$1,069.62) and unemployment benefits (\$810.00).
- 11) Your application states that you currently reside in New York County.
- 12) You testified that you and your husband cannot currently afford an insurance premium on your current monthly income. You would like you and your husband's eligibility for Medicaid to be reconsidered.
- 13) You are currently seeking a redetermination regarding the amount of financial assistance for health insurance for yourself and your husband; your son is enrolled in Child Health Plus, with a premium of \$9.00 per month, to which you have no objection.

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

## Applicable Law and Regulations

A tax filer is eligible for an advance premium tax credit (APTC) if (1) the tax filer is expected to have a household income of at least 100% but not more than 400% of the Federal Poverty Level (FPL), and (2) the tax filer expects to claim a personal exemption deduction on his or her tax return for an applicant who meets the eligibility requirements to enroll in a qualified health plan and is not eligible for minimum essential coverage except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR § 1.36B-2).

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 the 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 FPL, 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)).

The annual 2013 FPL for a three-person household is \$19,530.00 (78 Fed Reg 5182, 5813 (2013)).

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

On the other hand, an individual is eligible for enrollment in Medicaid through the Marketplace when he or she meets the nonfinancial criteria and has a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)). Financial eligibility for Medicaid

for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size (42 CFR § 435.603(h)(1)).

The annual 2014 FPL for a three person household is \$19,790.00 (79 Fed Reg 3593 (2014)). For a household of three in 2014, the maximum allowable income to be eligible for Medicaid is \$27,310.00 (138% FPL), which is \$2,276.00 per month.

## **Legal Analysis**

The only matters at issue are: (1) whether you and your husband are eligible for a greater advance premium tax credit (APTC) than the \$608.00 approved in the August 7, 2014 eligibility determination, (2) whether you are eligible for cost-sharing reductions, and (3) whether you and your husband are eligible for no-cost medical insurance through Medicaid.

According to the record, for the 2014 tax year you expect to file as married filing jointly and to claim one dependent. Therefore, for purposes of this decision you are a three-person household.

You reside in New York County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$730.57 per month.

The August 7, 2014 eligibility determination which you are appealing was based on an expected annual household income of \$31,932.85, which you testified is the amount of income you earned from your job up until the date of your last paycheck. Annual household income of \$31,932.85 equals 163.51% of the 2013 FPL for a three-person household. At 163.51% of the FPL, the expected contribution to the cost of the health insurance premium is 4.62% of income, or \$122.94 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$730.57 per month) minus your expected contribution (\$122.94 per month), which equals \$607.63 per month. Therefore, the Marketplace computed your APTC to be \$608.00 per month, given the information that was available at that time.

Cost sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income as of August 6, 2014 was 163.51% of the FPL for purposes for APTC and cost-sharing reductions, you were found eligible for cost sharing reductions.

However, at the hearing you testified that you had applied for unemployment benefits in late July of 2014, that your 2014 expected annual household income

no longer reflects your current income situation, and that you would like you and your husband's eligibility for Medicaid to be reconsidered.

Eligibility for Medicaid is determined based on an applicant's current monthly income. The record reflects that the first month you could have become eligible for Medicaid through the Marketplace was August. Therefore, your eligibility for Medicaid is based on your monthly income for the month of August.

You credibly testified that the only income your household received in the month of August was from your job and from unemployment benefits. You testified that you received the final check from your job on August 1, 2014 for a gross pay amount of \$1,069.62. In August you also received two weeks of unemployment benefits in the gross amount of \$405.00 each.

Therefore, your monthly income for August of 2014 is \$1,879.62 which puts you at 113.97% of the FPL.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL which is \$2,276.00 per month for a three-person household. Since your current monthly income is below this threshold, your case is being returned to the Marketplace for a redetermination of your eligibility for Medicaid based on your August monthly income of \$1,879.62.

## **Decision**

The August 7, 2014 eligibility determination and all other subsequent determinations are RESCINDED.

Your case is being returned to the Marketplace for a redetermination of you and your husband's eligibility for Medicaid based on your monthly income from August of 2014 of \$1,879.62.

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

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

The August 7, 2014 eligibility determination and all other subsequent determinations are RESCINDED.

Your case has been returned to the Marketplace for a redetermination of you and your husband's eligibility for Medicaid based on a monthly income from August of \$1,879.62 and a household of three.

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## **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 August 7, 2014 eligibility determination and all other subsequent determinations are RESCINDED.

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Your case is being returned to the Marketplace for a redetermination of you and your husband's eligibility for Medicaid based on your monthly income from August of \$1,879.62.

### **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]