



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

## Notice of Decision

Decision Date: September 26, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000805

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 9, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 1, 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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### Decision

Decision Date: September 26, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000805

[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] were ineligible for Medicaid, advance premium tax credits (APTC), and cost-sharing reductions (CSR) as of July 1, 2014?

### Procedural History

The Marketplace received your initial application on December 5, 2013.

On December 5, 2013, the Marketplace prepared a preliminary eligibility determination in your case. It said that you and your spouse were, pending receipt of documentation to prove your income level, eligible to enroll in a qualified health plan (QHP) through the Marketplace and receive up to \$197.00 per month in APTC. This preliminary determination was based on an expected annual household income of \$52,957.97.

On December 14, 2013, the Marketplace sent you notice of eligibility determination formalizing the December 5, 2013 preliminary determination.

On January 31, 2014, you uploaded a signed letter from [REDACTED] dated December 5, 2013, to your Marketplace online account, which stated that your expected earnings for the 2013 calendar year would total \$29,425.00.

On May 30, 2014, the Marketplace received a total of four pay stubs from you, each relating to payments received by your spouse from [REDACTED],

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█. between April 30, 2014 and May 21, 2014, and documenting that he was hired on April 14, 2014.

On June 25, 2014, with the assistance of a Marketplace Customer Service representative, your application was modified with an increase of your expected annual household income to \$72,032.63.

On July 1, 2014, the Marketplace issued a notice of eligibility redetermination base on your June 25, 2014 application. It said that you and your spouse were no longer eligible for financial assistance.

In a letter dated July 25, 2014, you appealed that determination.

On July 28, 2014, the Marketplace received a total of four pay stubs from you, each relating to payments received by your spouse from █, █. between July 2, 2014 and July 23, 2014.

On or about August 8, 2014, you also called the Marketplace's Customer Service unit, reiterating that you were appealing the July 1, 2014 determination.

On September 9, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. █, your Authorized Representative, also attended the hearing. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence your spouse's most recent paystub from his current employer. The record was to be closed after 15 days or upon the receipt of spouse's pay stub, whichever occurred earlier.

That same day, you provided via facsimile to the Appeals Unit a pay stub from your spouse's current employer, █, dated August 27, 2014. As a result, the record was closed on September 9, 2014.

## **Findings of Fact**

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

- 1) You are married to █ (NYSOH Exhibit A, pg. 1; Appellant testimony 9/9/14).
- 2) You will be filing a U.S. Income Tax return for the 2014 tax year, filing as "married filing jointly" and claiming no dependents (NYSOH Exhibit A, pg. 1; Appellant testimony 9/9/14).
- 3) You and your spouse reside in Yates County, New York (NYSOH Exhibit A, pgs, 1, 3; Appellant testimony 9/9/14).

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- 4) You testified that you were seeking insurance for both yourself and your spouse through the Marketplace (NYSOH Exhibit A, pgs. 1-3, Appellant testimony 9/9/14).
- 5) You are currently employed by [REDACTED], and expect your annual income for 2014 to be approximately \$29,425.00 for 2014 (NYSOH Exhibit A, pg. 2; Appellant testimony 9/9/14).
- 6) Your spouse was employed by [REDACTED] during 2013, until he left his position on October 21, 2013. He was unemployed from October 22, 2013 through April 13, 2014 (Appellant testimony 9/9/14).
- 7) Your spouse was hired by [REDACTED] on a full-time basis on April 14, 2014. You testified that your spouse expects to remain employed through the end of the year, and until recently he has been working overtime, albeit on an inconsistent basis. However, you further testified that because of the seasonal aspect of his employment, such overtime opportunities have decreased dramatically, and you do not expect him to receive any additional income over his standard rate of \$15.00 per hour, 40 hours per week, going forward (Appellant testimony 9/9/14).
- 8) You testified that your spouse's income that was added to your June 25, 2014 application was entered in error by the Marketplace, since the \$42,607.63 that was reported as your spouse's income was actually related to earnings from [REDACTED] during 2013. Accordingly, this figure is not accurate, and not indicative of your spouse's expected earnings from 2014 (Appellant testimony 9/9/14).
- 9) Your expected annual household income for 2014 as of June 25, 2014 is \$56,327.52, which includes (1) \$29,425.00 in earned income you received from [REDACTED], and (2) \$26,902.52 in earned income your spouse expects to receive from [REDACTED] which is based upon the total gross earnings received as of his August 27, 2014 pay stub (\$16,102.52) and his expected income for the remainder of the year (\$10,800.00). The \$10,800.00 figure for your spouse's expected income is based upon his consistent 40 hour workweek at \$15.00 per hour throughout the remainder of the year, which is 18 additional paychecks after August 27, 2014 (Appellant Exhibit 1, pg. 2.; Appellant testimony 9/9/14).

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 (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 Federal Poverty Level (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

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

For a two-person household, the 2013 FPL is \$15,510.00 (78 Fed Reg 5182, 5183 (2013)).

Cost sharing reductions (CSR) are available to a person who is eligible to enroll in a QHP and:

- 1) is eligible for an 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)).

Medicaid is provided through the Marketplace to adults who meet all of the following criteria: (1) are age 19 or older and under age 65; (2) are not pregnant; (3) are not entitled to or enrolled for Medicare benefits; (4) are not otherwise eligible for and enrolled for mandatory coverage under Medicaid; and (5) have household income that is at or below 138% of the federal poverty level, including the 5% disregard for household income where applicable (42 CFR § 435.119(b); 42 CFR § 435.603(d)).

## **Legal Analysis**

Your household size for APTC and CSR purposes is two (yourself and your spouse), and you expect to file as “married filing jointly” on your tax return for 2014 and claim no dependents.

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The eligibility redetermination made on July 1, 2014 was based on an anticipated household income \$72,032.63, which erroneously included income your spouse received from his former employer, [REDACTED], during 2013. This was the amount of your household's expected 2014 income indicated in your June 25, 2014 application. However, the credible evidence of record indicates that your expected income during 2014 is \$56,327.52, which includes your income from [REDACTED] (\$29,425.00), and your spouse's income from [REDACTED] (\$26,902.52).

Since the July 1, 2014 eligibility redetermination was based upon inaccurate income data, it is not supported by the record and is RESCINDED.

Accordingly, this case is REMANDED to the Marketplace for redetermination of your household's eligibility as of July 1, 2014, based upon an anticipated 2014 household income of \$56,327.52 for a household of two residing in Yates County.

## **Decision**

The eligibility determination made on July 1, 2014, is RESCINDED.

This case is REMANDED to the Marketplace for redetermination of your household's eligibility as of July 1, 2014, based upon an anticipated 2014 household income of \$56,327.52 for a household of two residing in Yates County.

**Effective Date of this Decision:** September 26, 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 income information that you provided to the Hearing Officer.

The Marketplace will calculate your APTC and CSR and issue a new notice of eligibility redetermination.

## **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 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).

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 eligibility determination made on July 1, 2014, is **RESCINDED**.

This case is **REMANDED** to the Marketplace for redetermination of your household's eligibility as of July 1, 2014, based upon an anticipated 2014 household income of \$56,327.52 for a household of two residing in Yates County.

This Decision does not decide your final eligibility.

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

The Marketplace will calculate your APTC and CSR and issue a new notice of eligibility redetermination.

### **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]  
[REDACTED]  
[REDACTED]