



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

## Notice of Decision

Decision Date: November 26, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000830

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 18, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health eligibility determinations dated August 9, 2014 and August 12, 2014.

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).

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000830

[REDACTED]  
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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 were eligible to receive up to \$225.00 per month in advance premium tax credit as of August 8, 2014?

Did the Marketplace properly determine that, provided you enrolled in a silver level health plan, you were eligible to receive cost-sharing reductions, as of August 8, 2014?

Did the Marketplace properly determine that you were not eligible for Medicaid as of August 8, 2014?

## Procedural History

The Marketplace received your application for health insurance on July 16, 2014.

On July 17, 2014, the Marketplace requested additional information on your income.

On August 5, 2014, you uploaded documentation of your income and employment status to your Marketplace account.

On August 8, 2014, the Marketplace made a preliminary determination of your eligibility using the updated information that you provided. On August 9 and 12, the Marketplace issued eligibility determination notices stating that, with a

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household income of \$18,128.75, you were not eligible for Medicaid but were eligible to enroll in a qualified health plan, receive up to \$225.00 per month in advance premium tax credit and receive cost-sharing reductions. The August 12, 2014 notice further stated that you had been granted a special enrollment period through September 10, 2014.

On August 13, 2014, you spoke with the Marketplace's Customer Service unit and appealed those determinations.

On September 18, 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 give you the opportunity to submit additional evidence. No additional evidence was received after the hearing. The record is now closed.

## **Findings of Fact**

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

- 1) You testified that you plan on filing your 2014 tax return as single and will claim no dependents on that tax return.
- 2) You testified that your last day of employment was July 12, 2014. You uploaded to your Marketplace account a Personnel Action form in which your former employer confirms that you separated from employment on July 12, 2014.
- 3) Your application stated that your expected annual household income is \$16,128.75. You provided evidence that this was the amount of income you had received as of July 3, 2014.
- 4) You testified that in addition to the \$16,128.75 in income you noted on your application, you received two more paychecks from your job after July 3, 2014 in the amount of \$600.00 each.
- 5) You testified that the last check you received from your job was on July 17, 2014.
- 6) You testified that you applied for unemployment benefits in July 2014.
- 7) You testified that you were denied unemployment benefits. You further testified that you are appealing that determination to the Department of Labor.

8) You testified that since July 17, 2014, you have had a weekly income of \$0.00.

9) According to your Marketplace application, you reside in Monroe County.

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), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

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 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)).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested. (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2013 FPL, which is \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

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

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), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

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 March 19, 2014).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit of up to \$225.00 per month.

The applications that were submitted on August 6, 2014 and August 8, 2014 attested to an expected yearly income of \$16,128.75, and the eligibility determinations on appeal relied upon that information.

According to the record you are the only person in your tax household.

You reside in Monroe County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$270.68 per month.

A 2014 annual income of \$16,128.75 is 140.37% of the 2013 FPL for a one-person household. At 140.37% of the FPL, the expected contribution to the cost of the health insurance premium is 3.43% of income, or \$46.10 per month. The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$270.68 per month) minus your expected contribution (\$46.10 per month), which equals \$224.58 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$225.00 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 a household income of \$16,128.75 is 140.73% of the 2013, the Marketplace correctly found you to be eligible for cost-sharing reductions.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138.0% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,670.00 for a one-person household. By that standard, \$16,128.75 is 138.82% of the FPL. Therefore the Marketplace properly found you to be ineligible for Medicaid coverage on the information provided.

Since the August 9, 2014 and August 12, 2014 determinations properly stated that, based on the information you provided, you were eligible for up to \$225.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, they are correct and are AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation. You testified that as of July 3, 2014 you received from your employer the \$16,128.75 and that you received two additional checks, which together totaled \$1,200.00 during July. You further testified that you have not received any additional income since then and did not anticipate receiving income for the remainder of the year.

The record now indicates that your 2014 income was \$17,328.75 for the months of January through July. You credibly testified that you had not received any income since July 17, 2014. Therefore, your monthly income for August, the month that you received your first eligibility determination, was \$0.00.

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 August 7, 2014 and your August 9, 2014 eligibility by expected annual income but not by monthly income, the case should be returned to the Marketplace for a redetermination of eligibility using an expected 2014 and income of \$17,328.75 and income for the month of August of \$0.00.

Therefore, the case is returned to the Marketplace to redetermine eligibility for financial assistance based on a one-person household with an August 2014 monthly income of \$0.00.

## **Decision**

The August 7, 2014 and August 9, 2014 eligibility determinations are AFFIRMED.

Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on an expected 2014 annual income of \$17,328.75 and income of \$0.00 for the month of August 2014.

**Effective Date of this Decision:** November 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 your corrected 2014 annual income and on income of \$0.00 for the month of August 2014.

The Marketplace will redetermine your eligibility and issue a new eligibility determination notice.

## **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

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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 and August 9, 2014 eligibility determinations are AFFIRMED.

This decision does not decide your final eligibility.

Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on an expected 2014 annual income of \$17,328.75 and income of \$0.00 for the month of August 2014.

The Marketplace will redetermine your eligibility and issue a new eligibility determination notice.

### **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]