



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

## Notice of Decision

Decision Date: December 15, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000845

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 29, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 19, 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).

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### Decision

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NY State of Health Number: [REDACTED]  
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[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 you and your husband were not eligible for Medicaid, an advance premium tax credit, and cost-sharing reductions as of August 18, 2014?

Did the Marketplace properly determine that your children were eligible for Child Health Plus insurance, with you paying the full premium, as of August 18, 2014?

### Procedural History

The Marketplace received your household’s application for health insurance on August 11, 2014.

On August 12, 2014 and on August 13, 2014, notices were issued that stated you, [REDACTED] might be eligible for health insurance through NY State of Health but that more information was needed to make a determination. You were asked to submit additional income information.

On August 12, 2014 and on August 13, 2014, you uploaded additional documentation to your Marketplace account.

On August 14, 2014 an eligibility determination notice was issued. The notice stated that you and [REDACTED] remain eligible to enroll in a qualified health

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plan (QHP) and to receive advance premium tax credits (APTC) in the amount of \$0.00 per month. In a second notice issued on August 14, 2014, your children's enrollment in a Child Health Plus (CHP) plan was confirmed.

On August 18, 2014, the Marketplace received a revised application with updated income information and made a preliminary eligibility determination that you and your spouse were eligible to enroll in a QHP but not eligible for financial assistance. The preliminary determination also stated that your children were eligible for CHP at full-premium cost.

Also on August 18, 2014, you spoke with Marketplace Account Review and appealed the preliminary determinations for yourself, your spouse, and your children.

On August 19, 2014, the Marketplace issued a notice of eligibility determination stating that you and your spouse were eligible to enroll until October 17, 2014 in a QHP without financial subsidy and ineligible for Medicaid. It did not issue a notice to confirm your children's eligibility for CHP.

On September 25, 2014, you were scheduled to appear for a telephone hearing. A Hearing Officer from the Marketplace's Appeals Unit called you and adjourned the hearing, because you stated that you had not received proper notice of the hearing date and time and were not prepared to proceed.

On September 29, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, on the record, you waived your right to formal notice of the hearing. The record was developed during the hearing and left open to allow you time to submit additional evidence. Evidence was uploaded to your Marketplace account later that day and also on October 8, 2014. The record is now closed.

## **Findings of Fact**

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

- 1) You testified that you and your spouse plan to file your 2014 income tax return as married filing jointly and claim your two children as dependents.
- 2) You testified that the household's current annual expected income amount on your application, \$98,509.96, is accurate.
- 3) You testified and provided evidence that your spouse's last day of employment was August 4, 2014.

- 4) You testified that your spouse received his last paycheck from his employer on August 15, 2014. The check was for \$3,310.00.
- 5) You testified and provided evidence that your spouse applied for unemployment benefits on August 11, 2014, and was approved at the benefit rate of \$405.00 per week. You also testified that he had not received any benefits and that you were not aware that he had to certify for unemployment benefits every week.
- 6) You testified that you are currently self-employed.
- 7) You testified and provided evidence of the amount of income you receive from your business. You provided evidence that on September 30, 2014, you received a total of \$686.59 for the month of September from your business.
- 8) You testified that the income you receive from your business is pre-tax.
- 9) You testified that since August 15, 2014, the only income you and your household has received has been from your business.
- 10) According to your Marketplace application, you reside in Orange County.

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

## **Applicable Law and Regulations**

### Advance Premium Tax Credit

The advance premium tax credit (APTC) 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 federal poverty level (FPL); (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)).

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 \$23,550.00 for a four-person household (78 Fed. Reg. 5182, 5183).

### Cost-Sharing Reductions

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Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credit, (3) is expected to have an annual household income that does not exceed 250% 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)).

### Medicaid

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 FPL 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)).

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household's modified adjusted gross income falls at or below 154% of the FPL (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

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 \$23,850.00 for a four-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can 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 March 19, 2014).

### Child Health Plus

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the FPL (New York Public Health Law § 2511(2)(a)(iii)).

When a child lives with two parents and a sibling, the child's eligibility is determined on a four-person family household (42 CFR § 435.603(f)).

## Legal Analysis

Your household consists of yourself, your spouse, and your two dependent children, so you are in a four-person household.

The August 19, 2014 notice states you and your husband are not eligible for an advance premium tax credit, cost-sharing reductions, or Medicaid coverage.

The advance premium tax credit (APTC) is available to people who meet the nonfinancial requirements and expect to have an annual household income between 138% and 400% of the 2013 federal poverty level (FPL).

In the application that was submitted on August 18, 2014, you attested to an expected yearly income of \$98,509.96, and the eligibility determination relied upon that information.

Since the 2013 FPL is \$23,550.00 for a four-person household, your expected 2014 income of \$98,509.96 is 418.30% of that FPL and so exceeds the financial limit to qualify for APTC.

To receive cost-sharing reductions, one must qualify for APTC and have an annual income that does not exceed 250% of the FPL for the plan year coverage is requested. Since you do not qualify for APTC and your income is higher than 250% of the 2013 FPL, you also do not qualify 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 the 2014 FPL of \$ 23,850.00 for a four-person household. Since \$98,509.96 is 413.04% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household's modified adjusted gross income falls at or below 154% of the FPL. Since the expected household income for 2014 is 413.04% of the 2014 FPL, your children also would not qualify for Medicaid on an expected annual income basis.

Since the August 19, 2014 determination properly stated that, based on the information you provided, you were not eligible for APTC, cost-sharing reductions or Medicaid coverage, it is correct and is **AFFIRMED**.

Although the Marketplace did not issue a separate notice of eligibility determination for your children, it did make a preliminary determination on

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August 18, 2014 that they were eligible for coverage through Child Health Plus at the full-premium rate.

A child who meets the eligibility requirements for Child Health Plus may qualify to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the FPL. Since your household income exceeds that level, the Marketplace correctly found that your children did not qualify for a subsidy payment to reduce the CHP premiums. Therefore, the August 18, 2014 preliminary determination is correct and is also AFFIRMED.

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

Your revised application was submitted on August 18, 2014 and record supports a finding that your August 2014 household income was at least \$3,310.00, the amount of the employer's final check to your spouse. To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the 2013 FPL, or \$2,709 per month. Since your income exceeded that limit, you did not qualify for Medicaid on the basis of monthly income when you submitted the application.

The record contains evidence that the September income from your business was \$686.59 but lacks sufficient evidence on the unemployment benefits received by your spouse to permit a determination based on that month's income.

If you want your financial eligibility redetermined for September 2014 or any later month, you can consult New York State Department of Labor's Unemployment Insurance Benefits Online for evidence to support your application. The Official Record of Benefit Payment history, available at that site, provides detailed information on the current benefit year, including the release dates for benefit payments.

## **Decision**

The August 19, 2014 eligibility determination and the August 18, 2014 preliminary determination are AFFIRMED.

**Effective Date of this Decision:** December 15, 2014



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

This decision does not change your eligibility.

You and your spouse remain eligible to enroll in a qualified health plan without financial subsidy and your children remain eligible for full-pay Child Health Plus coverage.

If you would like your household eligibility redetermined on the basis of monthly income, contact the Marketplace for assistance in submitting the evidence needed to support a 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 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 19, 2014 eligibility determination and the August 18, 2014 preliminary determination are **AFFIRMED**.

This decision does not change your eligibility.

You and your spouse remain eligible to enroll in a qualified health plan without financial subsidy and your children remain eligible for full-pay Child Health Plus coverage.

If you would like your household eligibility redetermined on the basis of monthly income, contact the Marketplace for assistance in submitting the evidence needed to support a 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]