



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

## Notice of Decision

Decision Date: December 5, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000856

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 29, 2014, you appeared by telephone at a hearing on your appeal of the 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

Decision Date: December 5, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000856

[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 [REDACTED] was ineligible for an advance premium tax credit, cost-sharing reductions, and Medicaid as of August 18, 2014?

Did the Marketplace properly determine that [REDACTED] was eligible for Child Health Plus with full-pay premiums as of August 18, 2014?

## Procedural History

On August 17, 2014, the Marketplace received your initial application for health insurance.

On August 18, 2014, you resubmitted your application and the Marketplace made a preliminary determination that, with an expected household income of \$69,469.92, you were not eligible for financial assistance and your daughter was eligible for coverage through Child Health Plus with full-pay premiums.

On August 19, 2014, the Marketplace issued a notice of eligibility determination giving you until October 14, 2014 to enroll in a qualified health plan through the Marketplace but stating that your household income of \$69,469.92 exceeded the eligibility limits for an advance premium tax credit, cost-sharing reductions, and Medicaid. No notice was issued on your daughter's determination.

On September 29, 2014, you appeared for a telephone hearing. Testimony was taken at the hearing. The record was held open until September 29, 2014 at 4:30 pm, at your request, to allow you to submit additional documentation.

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On August 21, 2014, you spoke to Marketplace Customer Service and requested an appeal.

On September 29, 2014, you submitted your Unemployment Insurance Benefits (UIB) payment history and last earnings statement from [REDACTED], [REDACTED]. The evidence was made part of the record, and the record was closed. The record is now complete and closed.

## Findings of Fact

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

1. You are applying for health insurance for yourself and your 12-year-old daughter.
2. You testified that you plan on filing a 2014 federal income tax return.
3. You testified that you plan to file your tax return with the tax status of Head of Household and claim one dependent on your 2014 federal income tax return.
4. According to your August 19, 2014 Marketplace Application, your expected 2014 annual household income is \$69,469.92, \$61,369.92 in earned income plus \$8,100.00 in Unemployment Insurance Benefits.
5. On September 29, 2014, you submitted your last earnings statement from [REDACTED] for the pay period August 10, 2014 through August 23, 2014. It indicates gross earnings of \$1,917.81 and year-to-date gross earnings of \$63,287.73.
6. You submitted a letter from [REDACTED] [REDACTED] stating that you were terminated effective August 15, 2014 (Appellant Exhibit A).
7. You testified that you applied for Unemployment Insurance Benefits on August 18, 2014. You submitted an unemployment insurance monetary benefit determination dated August 19, 2014, indicating that you were awarded a weekly benefit amount of \$405.00 (Appellant Exhibit B).
8. On September 29, 2014, you submitted your Unemployment Insurance Benefits payment history. It indicates that you collected

\$405.00 on August 31, September 7, September 14, and September 21, 2014 (Appellant Exhibit D). You testified that you anticipated receiving a payment on September 28, 2014.

9. Your August 18, 2014 Marketplace application indicates that your daughter has a 2014 expected yearly income of \$0.00.

10. You applied for health insurance through the Marketplace during August and September 2014.

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 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)).

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 \$15,510.00 for a two-person household (78 Fed. Reg. 5182, 5183).

### Cost-Sharing Reductions

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 credits, (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

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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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

### Child Health Plus

A child who meets the eligibility requirements for CHP 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 (PHL) § 2511(2)(a)(iii)). The amount of any premium payment, if any, that must be made on behalf of an eligible child who enrolls in Child Health Plus is dependent upon the child's family household income in relation to the relevant FPL for the given family size (NY Public Health Law § 2510(9)(d)).

For a CHP eligibility determination made on August 21, 2014 for a two-person household, the applicable FPL is \$15,730.00 (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 by the Department of Health and Human Services, March 19, 2014).

## **Legal Analysis**

According to the record, you have a two-person tax household. You expect to file your 2014 federal income tax return with the tax status of Head of Household and claim one dependent.

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan and has a household income no higher than 400% of the 2013 federal poverty level (FPL). Since the 2013 FPL for a two-person household is \$15,510.00, an annual income of \$69,469.92 is 447.90% of the FPL. Since your attested income exceeds 400% of the FPL, the determination correctly stated that you were not eligible for APTC at that income level.

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 \$69,469.92 is 447.90% of the 2013 FPL, the Marketplace correctly found you to be ineligible for cost-sharing reductions.

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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 \$15,730.00 for a two-person household. Since \$69,469.92 is 441.63% 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.

Of the requirements for determining your daughter's eligibility for Child Health Plus (CHP), the relevant factor in this analysis is the applicable FPL on the date of the determination.

A child who meets the eligibility requirements for CHP may be eligible to pay reduced premium if the household income is at or below 400% of the current FPL. Since a household income of \$69,469.92 is 441.63% of the 2014, the Marketplace properly found that your daughter was eligible for CHP coverage with full-pay premiums.

Since the Marketplace properly determined that as of August 18, 2014, you were not eligible for APTC, CSR, or Medicaid coverage and that your daughter was eligible for CHP coverage with full-pay premiums, the August 18, 2014 preliminary determination and the August 19, 2014 notice of eligibility determination are correct and AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation. You credibly testified that you were terminated from employment effective August 15, 2014 and submitted a letter from [REDACTED] to support that testimony.

You testified that you applied for Unemployment insurance benefits (UIB) on August 18, 2014 and were awarded a weekly benefit amount of \$405.00. Your Unemployment Insurance Benefits (UIB) payment history indicates that you collected \$405.00 on August 31, September 7, September 14, and September 21, 2014 (Appellant Exhibit D). You testified that you anticipated receiving a payment on September 28, 2014.

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 and September 2014 eligibility by expected annual income but not by monthly income, the case should be returned to the Marketplace for an eligibility determination on monthly income.

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According to the record, you received a payment of \$1,917.81 from your former employer on August 22, 2014 and a UIB payment of \$405.00 on August 31, 2014. Therefore, your August 2014 income was \$2,322.81.

During September, you received four UIB payments of \$405.00 each, making your September 2014 income \$1,620.00.

Since the record now includes credible evidence of your income for the months of August and September, 2014, the case is returned to the Marketplace for determination of your financial eligibility using your monthly income.

## **Decision**

The August 18, 2014 preliminary determination and August 19, 2014 notice of eligibility determination are affirmed.

The case is returned to the Marketplace to redetermine your eligibility for financial assistance on the basis of monthly income. The determination should be made for a two-person household with an August 2014 income of \$2,322.81 and a September 2014 income of \$1,620.00.

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

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

This decision does not change your eligibility.

If you are eligible to enroll in a qualified health plan through the Marketplace, you may do so without financial assistance, and your daughter is eligible for coverage through Child Health Plus with full-pay premiums.

However, your case will be returned to the Marketplace for redetermination of your eligibility using the additional information provided on appeal.

## **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:

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- 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 18, 2014 preliminary determination and August 19, 2014 notice of eligibility determination are affirmed.

This decision does not change your eligibility.

If you are eligible to enroll in a qualified health plan through the Marketplace, you may do so without financial assistance, and your daughter is eligible for coverage through Child Health Plus with full-pay premiums.

However, your case is returned to the Marketplace to redetermine your eligibility for financial assistance on the basis of monthly income. The determination should be made for a two-person household with an August 2014 income of \$2,322.81 and a September 2014 income of \$1,620.00.

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## **Legal Authority**

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

[REDACTED]  
[REDACTED]  
[REDACTED]