



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

## Notice of Decision

Decision Date: December 9, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000858

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 23, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 22, 2014 eligibility redetermination.

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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## Decision

Decision Date: December 9, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000858

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace properly determine that you were eligible to receive an advance premium tax credit of up to \$98.00 per month and, if you enrolled in a silver-level qualified health plan, for cost-sharing reductions as of August 22, 2014?

Did the Marketplace properly determine that you were not eligible to receive Medicaid as of August 22, 2014?

## Procedural History

The Marketplace first received your application on July 28, 2014.

On August 21, 2014, your application was resubmitted and the Marketplace made a preliminary redetermination that, with an expected 2014 household income of \$27,574.88, you were eligible for an advance premium tax credit of up to \$98.00 per month and, if you enrolled in a silver-level qualified health plan, for cost-sharing reductions. It also indicated that additional information was needed on your application.

On that same day, you spoke with a representative in the Marketplace's Customer Service Unit and appealed that determination.

On August 22, 2014, the Marketplace issued a written notice of eligibility redetermination that was consistent with the August 21, 2014 preliminary eligibility redetermination. It also said that you were not eligible to receive

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Medicaid because your annual household income of \$27,574.88 was over the allowable limit of \$16,105.00, that you had until September 29, 2014 to enroll in a qualified health plan, and that additional documentation was needed to support your attested income.

On September 23, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit documentary evidence.

On October 7, 2014, the Marketplace's Appeals Unit received a 6-page fax from you. It consisted of (1) a cover page; (2) a June 6, 2014 letter of separation from your employer; (3) a June 25, 2014 letter from your health insurer; and (4) an unemployment insurance benefits online report. This fax was marked collectively as "Appellant's Exhibit A" and was made part of the record. The record was closed that same day.

## **Findings of Fact**

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

- 1) You testified that you are currently single and living by yourself.
- 2) You expect to file your 2014 federal income tax return as single.
- 3) For the 2014 tax year, you do not expect to claim anyone as a dependent on your tax return and do not expect to be claimed by anyone else as a dependent.
- 4) You testified that your last day of employment was June 20, 2014 and that, on the date of your hearing, you remained unemployed. June 6, 2014 correspondence from [REDACTED] states that your employment ended at close of business on June 20, 2014 (Appellant's Exhibit A at p.2).
- 5) June 25, 2014 correspondence from BlueCross BlueShield states that the termination date for health insurance through your employer is August 1, 2014 (Appellant's Exhibit A at pp.3-4).
- 6) You testified that your total household income from January 1, 2014 to June 27, 2014 was \$18,396.88.
- 7) A printout of your Official Record of Benefit Payment history from Unemployment Insurance Benefits Online confirms that your benefit year began on June 23, 2014, and that your weekly benefit amount is \$405.00 (Appellant's Exhibit A at pp.5-6). It also states that you received your first benefit payment on July 9, 2014.

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8) You reported your household income on the August 21, 2014 Marketplace application as \$27,574.88. On the application you indicated that your expected 2014 income consisted of \$18,396.88 in earnings plus \$9,178.00 in unemployment benefits.

9) According to your Marketplace application, you currently live in Erie County, New York.

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 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 200% but less than 250% of the 2013 FPL, the expected contribution is between 6.30% and 8.05% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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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).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than their maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than their maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

### Cost-Sharing Reductions

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 a 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 federal poverty for the applicable family size (42 CFR § 435.119(b), 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 \$16,105.00 for a one-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 by the Department of Health and Human Services, March 19, 2014).

## Legal Analysis

The matters at issue are whether you are eligible for (1) a greater advance premium tax credit (APTC) than \$98.00 per month, (2) cost-sharing reductions, and (3) Medicaid coverage.

Since you reside by yourself and have no tax dependents, you are in a one-person household for purposes of this decision.

You reside in Erie County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$275.35 per month.

In the application that was submitted on August 21, 2014, you attested to an expected yearly income of \$27,574.88, and the eligibility determination relied upon that information.

An annual household income of \$27,574.88 equals 239.99% of the 2013 FPL for a one-person household. At 239.99% of the FPL, the expected contribution to the cost of the health insurance premium is 7.70% of income, or \$176.93 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$275.35 per month) minus your expected contribution (\$176.93 per month), which equals \$98.42 per month. Therefore, the Marketplace correctly computed your APTC, rounded to the nearest dollar, to be \$98.00 per month based on the income you had reported.

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 \$27,574.88 is 239.99% of the 2013 FPL, 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. Since \$27,574.88 is 236.29% 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.

However, at the hearing you credibly testified that your 2014 expected annual income no longer reflects your current income situation. Your employment ended on June 20, 2014, and you began to receive weekly unemployment benefits payments of \$405.00 on July 9, 2014. According to the Unemployment Insurance Benefits Online printout, you received four payments during August 2014.

Therefore, your monthly income for August 21, 2014, the date of your application, is \$1,620.00.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be based on current monthly household income and family size. 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 \$1,343 per month. Since your income was \$1,620.00 for August 2014, you did not qualify for Medicaid on the basis of monthly income when you submitted your initial or revised applications.

Since the August 22, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$98.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a Qualified Health Plan (QHP). Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty to the IRS for not having health insurance during 2014, you can consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **Decision**

The Marketplace's August 22, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** December 9, 2014

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

This decision does not change your eligibility.

You are eligible to receive an advance premium tax credit of up to \$98.00 per month and, while enrolled in a silver-level qualified health plan, for cost-sharing reductions but not eligible for Medicaid.

## **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 Marketplace's August 22, 2014 eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

You are eligible to receive an advance premium tax credit of up to \$98.00 per month and, while enrolled in a silver-level qualified health plan, for cost-sharing reductions but not eligible for Medicaid.

## **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]