



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

## Notice of Decision

Decision Date: December 26, 2014

NY State of Health Number: [REDACTED] -  
Appeal Identification Number: AP000000000868

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 15, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace August 22, 2014 notice of 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).

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

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000868

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly determine that, as of August 21, 2014, you were eligible for \$78.00 per month in advance premium tax credit, ineligible for cost-sharing reductions, and ineligible for Medicaid?

## Procedural History

The Marketplace initially received your application for health insurance on August 18, 2014.

On August 21, 2014, the income information in your Marketplace account was updated. On August 22, 2014, an eligibility determination notice was issued. That notice stated that you were eligible to receive up to \$78.00 per month in advance premium tax credit (APTC) based on a household income of \$38,795.95. The notice further stated that you were not eligible for either Medicaid or cost-sharing reductions (CSR) because your household income was over the allowable limits.

On August 22, 2014, you spoke with the Marketplace's Customer Service Unit and appealed that determination.

On September 15, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to provide you additional time to submit evidence. Evidence was uploaded to your Marketplace account on September 22, 2014. The record is now closed.

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## 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 that you will claim no dependents on that tax return.
- 2) You testified that your last day of employment was August 7, 2014. In July 24, 2014 correspondence, on employer letterhead, an [REDACTED] [REDACTED] states that your employment will be terminated effective August 7, 2014.
- 3) You testified that you received your last paycheck from your job on August 7, 2014. The check was for the gross pay amount of \$800.00.
- 4) You testified that you received a severance package from your job that included employer-sponsored health insurance coverage until August 31, 2014. On your August 21, 2014 Marketplace application you stated that you would lose essential health coverage on August 31, 2014.
- 5) You testified that your severance package included a lump-sum payment. The record contains an image of the August 22, 2014 lump-sum payment of \$7,840.00. It indicates that your year-to-date income is \$36,105.95.
- 6) You testified that you applied for unemployment benefits in August but were found ineligible for benefits because you received the lump-sum severance payments.
- 7) A September 4, 2014 Notice of Determination on Dismissal/Severance payments from the New York State Department of Labor states that you are ineligible for unemployment benefits from August 11, 2014 until October 12, 2014.
- 8) You testified that from August 22, 2014 until the date of your hearing, your weekly income was \$0.00.
- 9) You testified that, when you entered an expected income of \$38,795.95 on your August 21, 2014 application, you assumed you would be receiving unemployment benefits and included your expected benefits in that estimate.
- 10) You testified that on September 12, 2014, you reapplied for financial assistance and listed your expected income as \$36,105.95 to exclude the unemployment benefits that had been denied.

11) You currently reside in Richmond 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; (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 300% but less than 400% of the 2013 FPL, the expected contribution is 9.5% of annual 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).

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## 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 household modified adjusted gross income that is at or below 138% of the federal poverty level (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)).

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 by the US Department of Health and Human Services, March 19, 2014).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that as of August 21, 2014 you were eligible for an advance premium tax credit of up to \$78.00 per month.

In the application that was submitted on August 21, 2014, you attested to an expected yearly income of \$38,795.95, and the eligibility determination relied upon that information.

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

You reside in Richmond County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$385.19 per month.

An annual income of \$38,795.95 is 337.65% of the 2013 federal poverty level (FPL) for a one-person household. At 337.65% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$307.13 per month.

The maximum amount of advance premium tax credit (APTC) that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$385.19 per month) minus your expected contribution (\$307.13 per month), which equals \$78.06 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$78.00 per month.

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 \$38,795.95 is 337.65% of the 2013 FPL, the Marketplace correctly found you to be ineligible 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 \$11,670.00 for a one-person household. Since \$38,795.95 is 332.44% 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.

Since the August 22, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$38,795.95 per month, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicates that the income information contained on your August 21, 2014 application was based on a flawed estimate of unemployment benefits and no longer reflects your current income situation. Additionally, there is no indication in the record that your eligibility for financial assistance has been determined on the basis of your monthly income.

According to the credible evidence of record, you were employed during 2014 from January 1 until August 7. On August 22, 2014, you received your last paycheck from your former employer. The gross amount of that check was \$7,840.00, and it brought your year-to-date earnings to \$36,105.95

A September 4, 2014 notice from the Department of Labor confirms that you were ineligible for unemployment benefits from August 11, 2014 until October 12, 2014.

Therefore, while your August 2014 income was at least \$7,840.00, your September 2014 income was \$0.00.

You testified that your severance package included employer-sponsored health insurance coverage through August 31, 2014. Since your minimum essential coverage terminated at the end of August, you became eligible for financial assistance through the Marketplace as of September 1, 2014.

Although you resubmitted your Marketplace application on September 12, 2014, and corrected your expected annual income to \$36,105.95, there is no indication that your eligibility for financial support was determined during September using your monthly income.

Since the record now contains information on your income for September 2014, the first month that you were without employer-sponsored coverage, the case should be returned to the Marketplace for a redetermination of your eligibility using this additional information.

Therefore, your case is returned to the Marketplace to redetermine your eligibility using a one-person household in Richmond County with a September 2014 income of \$0.00.

## **Decision**

The August 22, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** December 26, 2014

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

This decision does not change any eligibility determination issued after August 22, 2014.

Your case is returned to the Marketplace to redetermine eligibility based on your September 2014 income of \$0.00 and a household of one person living in Richmond County.

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 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 22, 2014 eligibility determination is **AFFIRMED**.

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This decision does not change any eligibility determination issued after August 22, 2014.

Your case is returned to the Marketplace to redetermine eligibility based on your September 2014 income of \$0.00 and a household of one person living in Richmond County.

## **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]