



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

## Notice of Decision

Decision Date: December 29, 2014

[REDACTED]  
Appeal Identification Number: AP000000000887

[REDACTED]  
[REDACTED]  
[REDACTED]  
Dear [REDACTED],

On September 30, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 26, 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 29, 2014

[REDACTED]  
Appeal Identification Number: AP000000000887

[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 and your spouse were eligible to receive up to \$377.00 per month of advance premium tax credit but ineligible to receive cost-sharing reductions as of August 25, 2014?

Did the Marketplace properly determine that you and your spouse were ineligible for Medicaid, as of August 25, 2014?

## Procedural History

The Marketplace received your initial application for health insurance on March 11, 2014.

On August 25, 2014, you modified your application to include your spouse and your unborn child.

That same day, the Marketplace made a preliminary redetermination that you and your spouse were eligible to enroll in a qualified health plan, and collectively eligible to receive up to \$377.00 per month of advance premium tax credit. However, you and your spouse were found ineligible for cost-sharing reductions and Medicaid. This determination was based, in part, on a household income of \$47,900.00.

On August 25, 2014, you spoke with the Marketplace's Account Review unit and appealed that determination.

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).

On August 26, 2014, the Marketplace sent you a notice of eligibility redetermination, the findings of which were consistent with the August 25, 2014 preliminary redetermination.

On September 30, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: (1) your last paystub received on or about July 25, 2014; (2) a copy of your Unemployment Insurance Monetary Benefit Determination letter, dated August 15, 2014; (3) a copy your spouse's Unemployment Insurance Monetary Benefit Determination letter, dated July 18, 2014; and (4) and your spouse's Unemployment Insurance Official Record of Benefit Payment History. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On October 14, 2014, you provided the above referenced documents to the Appeals Unit by facsimile, as directed by the Hearing Officer. As a result, the record was closed on October 14, 2014.

## **Findings of Fact**

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

- 1) You are married and pregnant with one child.
- 2) You testified that you expect to file a U.S. Income Tax return for 2014, file as "married, filing jointly," and claim no dependents.
- 3) You are seeking health insurance for both you and your spouse through the Marketplace.
- 4) You reside in Suffolk County, New York.
- 5) You modified your application on August 25, 2014 to indicate an expected household income for 2014 of \$47,900.00.
- 6) You testified that you were employed by [REDACTED] during 2014 until your position was eliminated on July 25, 2014. During this period, you received approximately \$20,400.00 in earned income.
- 7) On or about July 28, 2014, you filed a claim for unemployment benefits relating to your employment by [REDACTED]. However, on August 15, 2014, it was determined that you did not meet the earnings requirement to qualify for such benefits.

- 8) You testified that you have been unemployed since your position was eliminated and expect to remain so through the end of 2014.
- 9) Your spouse testified that he was employed by [REDACTED] during 2014 until his position was eliminated on July 14, 2014. During this period, he received approximately \$20,000.00 in earned income.
- 10) On or about July 18, 2014, your spouse filed a claim for unemployment benefits relating to his employment by [REDACTED]. That same day, he was issued an Unemployment Insurance Monetary Determination Letter that found him eligible for \$375.00 per week in unemployment benefits. He began receiving such benefits on August 11, 2014. After your spouse received a partial payment of \$281.25 on August 11, 2014, he received four additional payments of \$375.00 during the month of August 2014.

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

## **Applicable Law and Regulations**

### Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

### 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)).

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The maximum amount of APTC that can be approved equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through 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 towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on household's income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 300% but less than 400% of the Federal Poverty Level (FPL), the expected contribution is 9.50% of the household income (26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

In an analysis of APTC and CSR 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

CSRs are available to a person who (1) is eligible to enroll in a qualified health plan (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 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)).

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Medicaid is also currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health 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 \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593); the household size includes you, your spouse, and your expected child.

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 you and your spouse were collectively eligible for an advance premium tax credit of up to \$377.00 per month and ineligible for CSR.

According to the record, you expect to file as “married, filing jointly” on your tax return for 2014 and to claim no dependents. Therefore, for purposes of APTC and CSR analysis, you are in a two-person household.

You reside in Suffolk County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$756.00 per month.

An annual household income of \$47,900.00, the expected income you noted on your application, equals 308.83% of the 2013 FPL for a two-person household. At 308.83% of the FPL, the expected contribution to the cost of the health insurance premium is 9.50% of income, or \$379.21 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available in your county for a couple (\$756.00 per month) minus your expected contribution (\$379.21 per month), which equals \$376.79 per month. Therefore, the Marketplace correctly computed your APTC, to the nearest dollar, to be \$377.00 per month.

CSR is available to a person who has an annual expected household income no greater than 250% of the FPL. Since an annual household income of \$47,900.00 is 308.83% of the FPL, you were correctly found ineligible for CSR.

The second issue is whether the marketplace properly determined that you and your spouse were ineligible for Medicaid.

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% of the FPL for the applicable family size; or 223% for a pregnant woman. On the date of your application, the relevant FPL was \$19,790.00 for a three-person household. Since \$47,900.00 is 242.04% of the 2014 FPL, the Marketplace properly found you and your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

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

You credibly testified and provided evidence that both you and your husband lost your jobs, and that your household received a total of \$1,781.25 in income during the month of August 2014.

You further testified that you are pregnant and expect one child. Therefore, for purposes of Medicaid eligibility, you and your spouse are in a three-person household.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. Since the record suggests that the Marketplace calculated your August 25, 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.

Therefore, the case is returned to the Marketplace to redetermine eligibility for a three-person household (consisting of you, your spouse, and your expected child), in Suffolk County, with an August 2014 income of \$1,781.25.

## **Decision**

The August 26, 2014 eligibility redetermination is **AFFIRMED**.

You remain eligible for an advance premium tax credit of up to \$377.00 per month, but ineligible for cost-sharing reductions.

However, this case is returned to the Marketplace to redetermine eligibility for a three-person household (consisting of you, your spouse, and your expected child), in Suffolk County, with an August 2014 income of \$1,781.25.

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**Effective Date of this Decision:** December 29, 2014

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

You remain eligible for an advance premium tax credit of up to \$377.00 per month, but ineligible for cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your and your spouse's Medicaid eligibility, using a three-person household, one member of which is pregnant, and an August 2014 income of \$1,781.25.

## **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 26, 2014 eligibility redetermination is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$377.00 per month, but ineligible for cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your and your spouse's Medicaid eligibility, using a three-person household, one member of which is pregnant, and an August 2014 income of \$1,781.25.

## **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]