



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

## Notice of Decision

Decision Date: December 23, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000891

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On October 2, 2014, you appeared by telephone with your daughter, who acted as your authorized representative, at a hearing on your appeal of NY State of Health Marketplace's August 26, 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).

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: AP000000000891

[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 are eligible to receive an advance premium tax credit of up to \$269.00 per month, and, if you select a silver-level qualified health plan, for cost-sharing reductions, as of August 25, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of August 25, 2014?

## Procedural History

The Marketplace received your original application on August 18, 2014, and modified your application on August 25, 2014.

On August 25, 2014, the Marketplace made a preliminary determination that you were eligible for an advance premium tax credit of up to \$269.00 per month and, if you enrolled in a silver-level qualified health plan, for cost-sharing reductions. It also asked you to submit additional documentation of your income.

On August 25, 2014, your authorized representative spoke with a representative in the Marketplace's Account Review Unit and appealed that determination.

On August 26, 2014, the Marketplace issued a written notice of eligibility determination on the August 25, 2014 application. It stated that you were temporarily eligible for advance premium tax credit of up to \$269.00 per month and temporarily eligible for cost-sharing reductions but not eligible for Medicaid. It also stated: "You told us that

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your total household income is \$17,634.00. When we checked state, federal and other data sources for income you and your family may have received this year, we were unable to verify what you told us. Therefore, we will need further documentation to verify your income.”

On October 2, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. [REDACTED], your daughter and authorized representative, also attended the hearing. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit documentary evidence to support you and your Authorized Representative’s testimony at the hearing. The record was to be closed after 15 days or upon receipt of the documentation, whichever occurred earlier.

On October 6, 2014, the Marketplace’s Appeals Unit received a 7-page fax from your Authorized Representative. It consisted of (1) a cover sheet; (2) a September 22, 2014 letter from the Social Security Administration; (3) a check stub for state disability benefits, dated September 17, 2014; (4) a direct deposit voucher and pay stub with a September 5, 2014 payment date; (5) a copy of an August 8, 2014 letter from your employer acknowledging your resignation and stating you may be eligible for short term disability benefits; (6) a September 16, 2014 letter from your employer verifying cancellation of your MVP HMO coverage; and (7) a September 1, 2014 letter in which you confirm your change of address. This fax was marked collectively as “Appellant’s Exhibit A” and made part of the record. That same day, the record was closed.

## **Findings of Fact**

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

- 1) You are single, have no dependents, and reside in Dutchess County.
- 2) You plan on filing your 2014 tax return as single.
- 3) You testified that you resigned from your employment due to health concerns and August 7, 2014 was your last day.
- 4) An August 8, 2014 letter from your former employer, [REDACTED], confirms your resignation due to health concerns (Appellant’s Exhibit A at p.5).
- 5) A September 5, 2014 pay stub for the pay period from August 16, 2014 to August 29, 2014, indicates gross earnings of \$565.20 in sick leave and year-to-date gross earnings of \$22,112.32 (Appellant’s Exhibit A at p.4).
- 6) You testified that you did not receive any severance package and you were notified by your employer that your health insurance was cancelled effective September 1, 2014. A September 16, 2014 letter from your employer states that

your MVP HMO insurance coverage was cancelled effective September 1, 2014 (Appellant's Exhibit A at p.6).

- 7) Your authorized representative testified that on September 11, 2014, you began to receive Social Security Disability benefits of \$832.00 per month. A September 22, 2014 letter from the Social Security Administration states that you are currently receiving benefits of \$832.00 per month (Appellant's Exhibit A at p.2).
- 8) Your authorized representative testified that on September 5, 2014 you began to receive short term disability benefits of \$170.00 every week. A State Disability Benefits statement, dated September 17, 2014, indicates that your date of loss is August 8, 2014, and your weekly benefit rate is \$170.00 (Appellant's Exhibit A at p.3).
- 9) Your authorized representative testified, and you agreed through sworn testimony, that you cannot afford to pay for a health plan even with tax credits.

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 (QHP) 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 QHP); 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 150% but less than 200% of the 2013 FPL, the expected contribution is between 4.00% and 6.30% of the 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 updated application, that was the 2013 FPL, which is \$11,490.00 for a one-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 APTC, (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 \$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 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 first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$269.00 per month.

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In the application that was submitted on August 25, 2014, you attested to an expected yearly income of \$17,634.00, and the eligibility determination relied upon that information.

You plan to file your 2014 federal income tax return as single and have no tax dependents, so you are in a one-person household.

You reside in Dutchess County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$330.41 per month.

An annual household income of \$17,634.00 equals 153.47% of the 2013 FPL for a one-person household. At 153.47% of the FPL, the expected contribution to the cost of the health insurance premium is 4.16% of income, or \$61.13 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 one person in your county (\$330.41 per month) minus your expected contribution (\$61.13 per month), which equals \$269.28 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$269.00 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 \$17,634.00 is 153.47% 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 \$17,634.00 is 151.10% 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 19, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$269.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

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

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be based on current monthly household income and family size. The record suggests that the Marketplace determined your eligibility by expected annual income but not by current monthly income.

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You testified that your last day of work was August 7, 2014, and this testimony is supported by the August 8, 2014 letter from your employer. You testified, however, that you are not sure of the number of hours you worked that week. While you provided the last pay advisory, dated September 5, 2014, for what appears to be unused sick leave, this pay advisory does not reflect what you received in earnings during the month of August 2014. Without knowing what you were paid during August 2014, the Marketplace cannot redetermine your financial eligibility for that month.

If you would like your eligibility for financial assistance determined using your August 2014 income, please provide to the Marketplace proof of your gross earnings for that month, such as direct deposit stubs with August check dates.

## **Decision**

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

**Effective Date of this Decision:** December 23, 2014

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

This decision does not change your eligibility.

You remain eligible for an advance premium tax credit of up to \$269.00 per month and cost-sharing reductions.

Please note that this decision only applies to your eligibility for advance premium tax credits for use in a qualified health plan for the year 2014. For insurance coverage starting January 1, 2015, you will need to reapply with the Marketplace during the Open Enrollment Period. The Open Enrollment Period is November 15, 2014 to February 15, 2015. For more information on Open Enrollment, please go to <https://nystateofhealth.ny.gov/>.

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

You remain eligible for an advance premium tax credit of up to \$269.00 per month and cost-sharing reductions.

## **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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).

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

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]