



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

## Notice of Decision

Decision Date: December 24, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000907

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On October 9, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 16, 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: AP000000000907

[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 are eligible to receive an advance premium tax credit of up to \$195.00 per month and, if you select a silver-level qualified health plan, for cost-sharing reductions as of August 15, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of August 15, 2014?

## Procedural History

The Marketplace received your application on August 15, 2014.

On August 16, 2014, the Marketplace issued a notice of eligibility determination on your August 15 application. It found that you are eligible to receive an advance premium tax credit of up to \$195.00 per month and, provided you enrolled in a silver-level qualified health plan, for cost-sharing reductions. You were not found eligible for Medicaid.

On September 2, 2014, you spoke with a representative in the Marketplace's Account Review Unit and appealed that determination.

On that same day, the Marketplace redetermined your eligibility and reached the same outcome.

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On September 3, 2014, the Marketplace issued a notice of eligibility redetermination that was consistent with its August 16, 2014 notice and the September 2, 2014 preliminary determination.

On October 9, 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 15 days to allow you the opportunity to submit income information. The record was to be closed on October 24, 2014, or upon receipt of documentation, whichever, occurred earlier.

On October 15, 2014, the Marketplace's Appeals Unit received a 19-page fax from you. It consisted of (1) A cover sheet; (2) A copy of your last pay stub; (3) A copy of the NYS Department of Labor Unemployment Insurance Benefits Online Report; and (4) Copies of the Marketplace's August 16, 2014 and September 3, 2014 eligibility determinations. This 19-page fax has been marked as "Appellant's Exhibit B" and 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 are single, have no dependents, and live in Genesee County, New York.
- 2) You plan on filing your 2014 federal income tax return as single and expect to take only the standard deductions.
- 3) You testified that you separated from employment on July 18, 2014 and that your health insurance terminated at the end of that month.
- 4) The record contains a letter from [REDACTED] dated July 18, 2014 confirming your separation from employment on that date and informing you that your health insurance will end on the last day of that month (Appellant's Exhibit A).
- 5) You testified that you received your last pay check on July 25, 2014.
- 6) The record contains your last paycheck and last paystub from [REDACTED] [REDACTED] dated July 25, 2014, which indicates year-to-date earnings of \$24,913.23 (Appellant's Exhibit B at p.2).
- 7) You testified that you had no earnings or other income during August 2014.

- 8) You testified that you are receiving unemployment benefits of \$385.00 per week which began on September 18, 2014.
- 9) The record contains your Official Record of Benefit Payment History showing your unemployment benefit payments of \$385.00 per week which began on September 18, 2014, for the weeks ending August 3, 2014, August 10, 2014, August 17, 2014 and August 31, 2014 (Appellant's Exhibit B at p. 3-4).

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)).

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).

### 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 percent 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 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 were eligible for an advance premium tax credit of up to \$195.00 per month.

In the application that was submitted on August 14, 2014, you attested to an expected yearly income of \$24,913.23, and the eligibility determination relied upon that information.

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According to the record, your tax household consists of yourself. You plan on filing your 2014 tax return as single and will not claim any dependents. Therefore, you are in a one-person household for purposes of this analysis.

You reside in Genesee County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$338.43 per month.

An annual household income of \$24,913.23 equals 216.83% of the 2013 federal poverty level (FPL) for a one-person household. At 216.83% of the FPL, the expected contribution to the cost of the health insurance premium is 6.89% of income, or \$143.02 per month.

The maximum amount of advance premium tax credit (APTC) that can be authorized equals the cost of the second lowest cost silver plan in your county (\$338.43 per month) minus your expected contribution (\$143.02 per month), which equals \$195.41 per month. Therefore, the Marketplace correctly computed your APTC, rounded to the nearest dollar, to be \$195.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 216.83% of the FPL, the Marketplace correctly determined that you are eligible for cost-sharing reductions provided you are enrolled in a silver level qualified health plan.

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 \$24,913.23 is 213.48% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis.

Since the August 16, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$195.00 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 August 2014 household income no longer reflects your current income situation. Therefore, you would like your eligibility for financial assistance to be reconsidered.

You credibly testified that you had no income during August 2014 and provided supporting documentary evidence that your income during August 2014, the month during which you applied, was \$0.00. Therefore, your income for August 2014 is \$0.00.

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 determined your eligibility by expected annual income but not by current monthly income, the case should be returned to the Marketplace for a redetermination of eligibility using an income of \$0.00 for the month of August 2014.

Therefore, the case is returned to the Marketplace to redetermine eligibility for financial assistance based on a one-person household with an August 2014 income of \$0.00.

## **Decision**

The August 16, 2014 eligibility determination is AFFIRMED.

This case is returned to the Marketplace to redetermine eligibility for a one-person household with an August 2014 income of \$0.00.

**Effective Date of this Decision:** December 24, 2014

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

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your eligibility, taking into account the additional information you provided during and after your hearing. The Marketplace will issue another notice after it redetermines your eligibility.

You remain eligible for an advance premium tax credit of up to \$195.00 per month and cost-sharing reductions.

## **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))

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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 16, 2014 eligibility determination is AFFIRMED.

You remain eligible for an advance premium tax credit of up to \$195.00 per month and cost-sharing reductions.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a one-person household and an August 2014 income of \$0.00.

This decision does not change your eligibility, but it does direct the Marketplace to redetermine your eligibility, taking into account the additional information you provided during and after your hearing. The Marketplace will issue another notice after it redetermines your eligibility.

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## **Legal Authority**

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

[REDACTED]  
[REDACTED]  
[REDACTED]