



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

## Notice of Decision

Decision Date: December 31, 2014

[REDACTED]  
Appeal Identification Number: AP000000000908

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

On September 26, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 2, 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

Decision Date: December 31, 2014

[REDACTED]  
Appeal Identification Number: AP000000000908

[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 \$285.00 per month and, if you select a silver-level qualified health plan, for cost-sharing reductions as of September 1, 2014?

Did the Marketplace properly determine that you are not eligible for Medicaid as of September 1, 2014?

### Procedural History

You initially applied to the Marketplace on March 25, 2014, and were found eligible for up to \$275.00 in advance premium tax credit.

The Marketplace received your updated application on August 26, 2014, which you again modified on September 1, 2014. Both resulted in the Marketplace redetermining your eligibility.

Based on the updated information, on September 2, 2014, the Marketplace redetermined your eligibility and issued a written notice. It said you were eligible to receive an advance premium tax credit of up to \$285.00 per month and, if you select a silver-level qualified health plan, for cost sharing reductions. It also said that you were not eligible for Medicaid because the income you provided of \$19,560.06 is over the allowable income limit of \$16,105.00.

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

On September 26, 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 to submit documentary evidence.

On September 26, 2014, the Marketplace's Appeals Unit received a fax from you. It contains 6 pages consisting of a copy of your unemployment benefits determination letter, a print-out of your online unemployment benefits record, and an earnings statement. Collectively, this fax was made part of the record as "Appellant's Exhibit C."

The record is now closed.

## **Findings of Fact**

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

- 1) You are single, have no dependents, and live in New York County, New York.
- 2) You testified that you expect to file your 2014 federal income tax return as single.
- 3) You testified that your last day of work was August 8, 2014, and you were sent an email from your employer on August 9, 2014 telling you that your position had been eliminated.
- 4) You testified that from August 1, 2014 to August 8, 2014, you earned approximately \$140 per day from your employment and worked part time for 5 days.
- 5) The record contains an August 7, 2014 paystub showing gross earnings of \$117.60; an August 8, 2014 paystub showing gross earnings of \$959.91; and an August 22, 2014 paystub showing gross earnings of \$1,707.11, with year-to-date earnings of \$16,293.98 (Appellant's Exhibit A).
- 6) The record contains an Unemployment Insurance Monetary Benefit Determination dated August 12, 2014 showing your entitlement to a weekly unemployment benefit rate of \$269.00 (Appellant's Exhibit B).
- 7) A printout of your Official Record of Benefit Payment History from Unemployment Insurance Benefits Online confirms that your benefit year

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began on August 11, 2014 and has an ending date of June 16, 2015, and that your weekly benefit amount is \$269.00 gross. It also states that your first benefit payment was released on August 26, 2014, and benefit payments were released thereafter on September 2, 2014, September 9, 2014, September 16, 2014, and September 23, 2014 (Appellant's Exhibit C, pp.2-3).

- 8) You want to be reconsidered for Medicaid eligibility based on your change in income.

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 (FPL); (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 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 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 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 qualified health plan (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 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 \$285.00 per month.

In the application that was submitted on September 1, 2014, you attested to an expected yearly income of \$19,560.06, and the eligibility determination relied upon that information.

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

You reside in New York County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$365.28 per month.

An annual household of \$19,560.06 equals 170.24% of the 2013 FPL for a one-person household. At 170.24% of the FPL, the expected contribution to the cost of the health insurance premium is 4.93% of income, or \$80.36 per month.

The maximum amount of advance premium tax credit that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for one person in your county (\$365.28 per month) minus your expected contribution (\$80.36 per month), which equals \$284.92 per month. Therefore, the Marketplace correctly computed your advance premium tax credit, rounded to the nearest dollar, to be \$285.00 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 \$19,560.06 is 170.24% 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% 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 \$19,560.06 is 167.61% 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 testified that your 2014 expected household income no longer reflects your current income situation and that you would like your financial eligibility reconsidered.

The record indicates that the only income you received during August 2014, the month of your initial application, consisted of earnings from your employer and unemployment benefits. According to the paystubs you received from your employer during August 2014, you received gross earnings from employment of \$117.60 on August 7; \$959.91 on August 8; and \$1,707.11 on August 22 (Appellant's Exhibit A). According to your unemployment insurance benefit payment history, you received unemployment benefits of \$269.00 on August 26, 2014 (Appellant's Exhibit C). According to this documentation, your income for

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August 2014 was \$3,053.62 (consisting of \$2,784.62 of earned income and \$269.00 of unemployment benefits).

Your only income for September 2014, the month of your revised application, was in the form of unemployment benefit payments at a weekly rate of \$269.00 released on September 2, September 9, September 16, and September 23, 2014. Because your record of Unemployment Benefit Payment History was provided on September 26, 2014, it does not show activity through the end of September 2014. However, since it indicates you are eligible to receive benefits through June 15, 2015, and the payment history shows that your benefits are consistently released to you on Tuesdays, it is reasonable to infer that a payment was also released to you on Tuesday, September 30, 2014. This would give you a total September 2014 income of \$1,345.00.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. To be eligible for Medicaid, you must 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 over this amount for August 2014 and for September 2014, you do not qualify for Medicaid on the basis of monthly income during those months.

Since the September 2, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$285.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

## **Decision**

The September 2, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** December 31, 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 \$285.00 per month, and you remain eligible for cost-sharing reductions provided you are enrolled in a silver level qualified health plan through the Marketplace.

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As of August 26, 2014 and September 1, 2014, you were not eligible for Medicaid because your monthly income was higher than \$1,343.00 during August 2014 and during September 2014.

### **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

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## **Summary**

The September 2, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You remain eligible for an advance premium tax credit of up to \$285.00 per month, and you remain eligible for cost-sharing reductions provided you are enrolled in a silver level qualified health plan through the Marketplace.

As of August 26, 2014 and September 1, 2014, you were not eligible for Medicaid because your monthly income was higher than \$1,343.00 during August 2014 and during September 2014.

## **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]