



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

### Notice of Decision

Decision Date: January 5, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000910

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Ms. Molina,

On October 7, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s August 5, 2014 and August 22, 2014 eligibility determinations.

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).

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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000910

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were eligible to receive up to \$25.00 per month of advance premium tax credit, but ineligible to receive cost-sharing reductions and Medicaid, as of August 5, 2014 and August 22, 2014?

## Procedural History

The Marketplace received your initial application for health insurance on August 4, 2014.

That same day, the Marketplace prepared a preliminary redetermination based on your August 4, 2014 application. It found you eligible to enroll in a qualified health plan (QHP) and to receive up to \$25.00 per month of advance premium tax credit (APTC). However, you were found ineligible for cost-sharing reductions (CSR) and Medicaid. This determination was based, in part, on an expected household income of \$32,960.00.

On August 5, 2014, the Marketplace issued a notice of eligibility determination, the findings of which were consistent with the August 4, 2014 preliminary determination, except that it noted that you were temporarily eligible to enroll in a QHP and receive APTC. Additional documentation regarding your income was requested.

On August 19, 2014, a copy of your Unemployment Insurance Monetary Benefit Determination, dated May 13, 2014, in which you were determined eligible for

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\$405.00 per week in unemployment benefits, was uploaded to your Marketplace online account. The Marketplace verified this document as valid proof of your income on August 21, 2014.

On August 22, 2014, the Marketplace issued a notice of eligibility redetermination, which was based, in part, on the updated information you provided. The findings of this redetermination were identical to those of the August 5, 2014 eligibility determination, except that the reference to temporary eligibility was removed.

On September 2, 2014, you spoke with the Marketplace's Account Review Unit and appealed the August 5, 2014 and August 22, 2014 eligibility determinations.

On October 7, 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 a copy of your Unemployment Insurance Official Record of Benefit Payment History as additional evidence. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced document, whichever occurred earlier.

On October 7, 2014, shortly after the hearing concluded, you provided the above referenced document to the Appeals Unit by facsimile. As a result, the record was closed on October 7, 2014.

## **Findings of Fact**

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

- 1) In your application you state that you are widowed.
- 2) You live alone and have no children.
- 3) You testified that you plan to file a U.S. Income Tax return for 2014, file as "single" and claim no dependents.
- 4) You are seeking health insurance through the Marketplace for just yourself.
- 5) You reside in Erie County, New York.
- 6) You testified that you were employed by [REDACTED] during 2014 until the conclusion of your employment contract on May 10, 2014. During this period, you received approximately \$22,430.00 in earned income.

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- 7) On May 12, 2014, you filed a claim for unemployment benefits relating to your employment with Niagara.
- 8) On May 12, 2014, you were issued an Unemployment Insurance Monetary Determination that found you eligible for \$405.00 per week in unemployment benefits. You began receiving such benefits on May 27, 2014. During the month of your application, August 2014, you received four payments of \$405.00.
- 9) The Unemployment Insurance Monetary Determination indicates that you had a remaining balance of \$2,430.00 as of your payment on October 6, 2014.

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 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 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 250% but less than 300% of the 2013 FPL, the expected contribution is between 8.05% and 9.50% of the household income (26 CFR § 1.36B-3(g)(2)).

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 \$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 qualified health plan (QHP) through the Marketplace, (2) meets the requirements to receive APTC, (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 for the applicable family size (42 CFR §§ 435.119(b), 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 only matters at issue are whether (1) you were eligible for advance premium tax credit (APTC) greater than \$25.00 per month determined (2) you were eligible for cost-sharing reductions (CSR), and (3) you were eligible for Medicaid, in each case as of August 5, 2014 and August 22, 2014.

According to the record, you testified that you expect to file as “single” on your tax return for 2014 and claim no dependents. Therefore, for purposes of this Decision, you are in a one-person household.

You reside in Erie County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$275.35 per month.

You credibly testified that as of your August 4, 2014 application, your expected income for 2014 was \$32,960.00, which consisted of (1) \$22,435.00 in income received from Niagara prior to the ending of your employment contract on May 10, 2014, and (2) \$10,530.00 (\$405.00 x 26 weeks) in expected unemployment benefits during 2014.

An annual household income of \$32,960.00 equals 286.86% of the 2013 (federal poverty level) FPL for a one-person household. At 286.86% of the FPL, the expected contribution to the cost of the health insurance premium is 9.12% of income, or \$250.50 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$275.35 per month) minus your expected contribution (\$250.50 per month), which equals \$24.85 per month.

Therefore, the Marketplace correctly computed your APTC, to the nearest dollar, to be \$25.00 per month.

Cost-sharing reductions are available to a person who has an annual expected household income no greater than 250% of the FPL. Since your annual household income is 286.86% of the FPL, you were correctly found 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 (MAGI) 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 \$32,960.00 is 282.43% 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 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 you received \$1,620.00 in income (\$405.00 x 4) for the month of August 2014. Therefore, your income for August 2014 was \$1,620.00.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is 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 \$1,342.05 per month. Since your income was \$1,620.00 for August 2014, you did not qualify for Medicaid on the basis of monthly income when you submitted your August application.

Since the August 5, 2014 and August 22, 2014 determinations properly stated that, based on the information you provided, you were eligible for APTC of up to \$25.00 per month, ineligible for cost-sharing reductions, and ineligible for Medicaid, they are correct and must be AFFIRMED.

## **Decision**

The August 5, 2014 and August 22, 2014 eligibility determinations are AFFIRMED.

**Effective Date of this Decision:** January 5, 2015

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

This Decision does not change your eligibility.

As of August 2014, you were entitled to up to \$25.00 per month in advance premium tax credit and ineligible for cost-sharing reductions and Medicaid.

This Decision has no effect on any determinations that were made after the August 22, 2014 determination.



## **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:  
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## **Summary**

The August 5, 2014 and August 22, 2014 eligibility determinations are AFFIRMED.

This Decision does not change your eligibility.

As of August 2014, you were entitled to up to \$25.00 per month in advance premium tax credit and ineligible for cost-sharing reductions and Medicaid.

This Decision has no effect on any determinations that were made after the August 22, 2014 determination.

## **Legal Authority**

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

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

[REDACTED]  
[REDACTED]  
[REDACTED]