



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: AP000000000920

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On October 8, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 9, 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: AP000000000920

[REDACTED]  
[REDACTED]  
[REDACTED]

### Issues

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

Did the Marketplace properly determine that, as of August 8, 2014, you were eligible for an advance premium tax credit of up to \$319.00 per month and cost-sharing reductions but not eligible for Medicaid?

### Procedural History

The Marketplace initially received your application for health insurance on August 7, 2014, and it was resubmitted on August 8, 2014.

On August 9, 2014, the Marketplace issued a notice of eligibility determination stating that you are eligible to enroll in a qualified health plan and have been granted a special enrollment period until September 29, 2014 to do so. It also states that you qualify for up to \$319.00 per month in advance premium tax credit and are eligible to receive cost-sharing reductions, provided you enroll in a silver level health plan. Finally, it states that you are not eligible for Medicaid because your income is not within the allowable limit for that program.

On September 3, 2014, you spoke with the Marketplace’s Account Review Unit and appealed that determination.

On October 8, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during the hearing and was left open for 15 days to allow you the opportunity to submit evidence of your income. On October 16, 2014, you faxed in the requested documentation to the Appeals Unit. The record is now closed.

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## **Findings of Fact**

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

- 1) You testified that you plan on filing your 2014 tax return as Single and that you will claim no dependents on that tax return.
- 2) Your application states that your expected annual household income is \$16,640.00. You testified that this was the amount that was calculated based on a weekly gross pay of \$320.00, and that you will not make exactly \$16,640.00 because you did not always receive \$320.00 per week. You further testified that this is because you do not always work the full amount of hours you need to receive \$320.00 per week and you do not receive any paid time off.
- 3) You provided evidence of your income from your job for the month of September. On September 5, 2014, you received a check in the gross amount of \$144.00. On September 12, 2014, you received a check in the gross amount of \$112.00. On September 19, 2014, you received a check in the gross amount of \$320.00. On September 26, 2014, you received a check in the gross amount of \$316.00.
- 4) According to your Marketplace application, you reside in Kings County.
- 5) You testified that you are appealing because your current monthly income should make you eligible for Medicaid.

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), 435.911(b)(1), 435.603(d)(4)).

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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 133% but less than 150% of the 2013 FPL, the expected contribution is between 3.00% and 4.00% 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 qualified health plan 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 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 FPL 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 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 \$319.00 in advance premium tax credit (APTC).

In the application that was submitted on August 8, 2014, you attested to an expected yearly income of \$16,640.00, and the eligibility determination relied upon that information.

According to the record, you are the only member of your tax household. You expect to file as single on your tax return for 2014 and to claim no dependents.

You reside in Kings County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$370.52 per month.

An annual household income of \$16,640.00 equals 144.82% of the 2013 FPL for a one-person household. At 144.82% of the FPL, the expected contribution to the cost of the health insurance premium is 3.70% of income, or \$51.31 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$370.52 per month) minus your expected contribution (\$51.31 per month), which equals \$319.21 per month. Therefore, rounding to the nearest dollar, you would be eligible for up to \$319.00 per month in APTC.

The second issue is whether or not the Marketplace correctly found you eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 144.82% of the FPL, you were correctly found eligible for cost-sharing reductions.

However, at the hearing you testified that you do not always receive exactly \$320.00 per week in wages. You explained that if you worked the full number of hours you were scheduled for, you would receive \$320.00 per week from your job. If you worked every day you were scheduled for without interruption, every week, your annual expected income for 2014 would be \$16,640.00. You testified and provided evidence that you will not make exactly \$16,640.00 in 2014 because you do not always work that many hours and you do not get paid time off.

While this testimony is entirely credible, it does not give the Marketplace enough information to make a more precise estimate of your expected earnings for 2014. Therefore, there is not enough information available to redetermine your eligibility on the basis of annual expected income.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be based on current monthly household income and family size.

You provided evidence of your income from for September 2014. You received checks for amounts of \$144.00, \$112.00, \$320.00, and \$316.00. Therefore, your gross income for September 2014 is \$892.00.

Since the record suggests that the Marketplace calculated your 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 your eligibility for financial assistance based on a one-person household in Kings County, with September 2014 monthly income of \$892.00.

## **Decision**

The August 9, 2014 eligibility determination is AFFIRMED.

However, your case is returned to the Marketplace for a redetermination of your eligibility for Medicaid based on your September 2014 income of \$892.00 and a household of one person.

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

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

This decision does not change your eligibility. You remain eligible for \$319.00 per month in advance premium tax credit and remain eligible for cost-sharing reductions.

However, your case is returned to the Marketplace to redetermine your eligibility for Medicaid based on a September monthly income of \$892.00 and a household of one person.

## **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 9, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility. You remain eligible for \$319.00 per month in advance premium tax credit and remain eligible for cost-sharing reductions.

However, your case is returned to the Marketplace to redetermine your eligibility for Medicaid based on a September monthly income of \$892.00 and a household of one person.

## **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]