



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: AP000000000924

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

On October 6, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 5, 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: AP000000000924

[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 were eligible to enroll in a qualified health plan without a subsidy as of September 5, 2014?

Did the Marketplace properly determine that you were not eligible for Medicaid as of September 5, 2014?

Did the Marketplace properly determine that your two children were eligible for Child Health Plus at full premium cost as of September 5, 2014?

## Procedural History

The Marketplace received your application on July 17, 2014, which you corrected on September 4, 2014.

On September 4, 2014, the Marketplace prepared a preliminary eligibility determination in your case. It determined that you are eligible to enroll in a qualified health plan without subsidy and your two children were eligible for Child Health Plus (CHP) at full premium.

On September 4, 2014, you spoke with a representative in the Marketplace's Account Review Unit and appealed these determinations.

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On September 5, 2014, the Marketplace issued eligibility determination notices that were consistent with the September 4, 2014 preliminary eligibility determinations.

On October 6, 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 documentary evidence. The record was to be closed after 15 days or upon receipt of the documentation, whichever occurred earlier.

On October 9, 2014, the Marketplace's Appeals Unit received a 20-page fax from you. It consisted of (1) a cover page; (2) screen shots of your on-line unemployment benefits account; (3) a copy of your separation from employment agreement; (4) a copy of your judgment of divorce; and (5) a copy of your Petition for Modification of Support. This fax was marked collectively as "Appellant's Exhibit A" 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 a divorced father with two daughters, ages 14 and 11, and reside in Nassau County, New York.
- 2) According to your Marketplace application and your testimony that you claimed your two daughters as dependents on your 2013 tax return, you plan on filing your 2014 tax return as single with two dependent children.
- 3) You separated from employment as of June 16, 2014 (Appellant's Exhibit A at p.4).
- 4) You received a lump-sum severance payment of \$47,846.00 in June 2014 (Appellant's Exhibit A at pp. 4 and 8-9).
- 5) You testified that that employer-sponsored health insurance for you and your two children ended effective June 30, 2014, but you did not learn of this until mid-July 2014.
- 6) You and your two children need health coverage through the Marketplace.
- 7) You testified that you tried to complete an online application for health insurance on July 17, 2014, but ran into technical difficulties and could not complete it.

- 8) You testified that you filed for unemployment benefits in mid-July 2014. You provided documentary proof that you were approved to receive \$405 per week for 26 weeks and received your first check on September 22, 2014 (Appellant's Exhibit A at pp. 2-3).
- 9) According to your Marketplace application and your testimony, you were able to complete the application with assistance from the Marketplace's Customer Service Unit on September 4, 2014, and entered the income you had earned year-to-date.
- 10) You are not requesting help with paying prior medical bills.
- 11) You had not changed your income information on your Marketplace application as of the date and time of the hearing.
- 12) You testified that you would like your eligibility reconsidered using your current monthly 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 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

- 1) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

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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)).

For a three-person household, the 2013 FPL is \$19,530.00 (78 Fed Reg 5182, 5183 (2013)).

### 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 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 QHP (45 CFR § 155.305(g)(1)).

### Medicaid

An individual is eligible for enrollment in Medicaid when she meets the nonfinancial criteria and has a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)). 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).

A child who is at least one year old but younger than nineteen years of age is Medicaid eligible at a household income up to 154% of the Federal Poverty Level (42 CFR § 435.118(c); NY Dept of Social Servs Admin Directive 13ADM-03).

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 \$19,790.00 for a three-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 March 19, 2014).

## Child Health Plus

A child may be eligible for coverage through Child Health Plus (CHP) provided (1) he or she lives in a household having a household income at or below 400% of the federal poverty level (FPL) and (2) is not eligible for medical assistance (Medicaid), except that a child who becomes eligible for Medicaid after becoming eligible for CHP, may be eligible for a subsidy payment for a period of three months after becoming eligible for such medical assistance (NY Public Health Law § 2511(2)(b) and (3)).

## **Legal Analysis**

According to the record, your tax household consists of you and your two dependent daughters. You plan on filing your 2014 tax return as single and claiming your two dependent children. Therefore, you are in a three-person household for purposes of this analysis.

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

According to your Marketplace application and your evidence at the hearing, you earned \$92,000.00 during 2014 before you separated from employment and expect to take \$6,000.00 in deductions. This supports a finding that your expected 2014 income was \$86,000.00, which is the household income used for the September 5, 2014 determination.

An annual household income of \$86,000.00 equals 440.35% of the 2013 FPL for a three-person household. At 440.35% of the FPL, your annual income exceeds the maximum income threshold for advance premium tax credits of \$78,120.00 (400% of the FPL) and cost-sharing reductions of \$48,825.00 (250% of the FPL). As such, your expected contribution to the cost of the health insurance premium for a qualified health plan is the full amount.

The same is true for CHP premium. Your annual household income of \$86,000.00 equals 434.56% of the FPL for CHP purposes, which is over the allowable income limit of \$78,120.00 (400% of the FPL), and resulted in you being responsible to pay the full premium amount for your two children.

However, at the hearing you testified that you had significant changes in your work and living situations and that your 2014 expected annual household income no longer reflects your current household income. You also stated that you would like your financial eligibility to be reconsidered on the basis of your new income.

You credibly testified that you had no income in July 2014, the month in which you originally applied. You further testified and submitted documentary proof that

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the only income your household received during September 2014, the month during which you updated your application, consisted of unemployment benefits of \$405.00 per week. Your online unemployment benefits report shows that, on September 22, 2014, you received benefits of \$405.00 per week for four weeks ending on August 31, 2014, September 7, 2014, September 14, 2014, and September 21, 2014. That report also shows you received \$405.00 for the week ending September 28, 2014 on September 30, 2014. Therefore, your household income for September 2014 is \$2,025.00.

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 would need to meet the non-financial criteria and have a monthly income no greater than 138% of the FPL, which is \$2,276.00 per month for a three-person household.

Since the record suggests that the Marketplace calculated your September 5, 2014 eligibility by expected annual income and 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 eligibility for a three-person household with a September 2014 income of \$2,025.00, if your eligibility has not already been computed on the basis of your changed income.

## **Decision**

The September 5, 2014 eligibility determination is AFFIRMED.

This case is returned to the Marketplace to redetermine eligibility for a three-person household with a September 2014 income of \$2,025.00, if your eligibility has not already been redetermined on the basis of your changed income.

**Effective Date of this Decision:** December 31, 2014

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

As of September 2014, you were eligible to enroll in a qualified health plan without subsidy through the Marketplace.

During September 2014, your two children were eligible for and enrolled in CHP at full-premium cost

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Your case is returned to the Marketplace for a redetermination of your eligibility, using a three-person household and a September 2014 income of \$2,025.00, if your eligibility has not already been redetermined on the basis of your changed income.

This decision has no effect on any Marketplace determination issued after September 5, 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:

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- By fax: 1-855-900-5557

## **Summary**

The September 5, 2014 eligibility determination is AFFIRMED.

As of September 2014, you were eligible to enroll in a qualified health plan without subsidy through the Marketplace.

During September 2014, your two children were eligible for and enrolled in CHP at full-premium cost.

Your case is returned to the Marketplace for a redetermination of your eligibility, using a three-person household and a September 2014 income of \$2,025.00, if your eligibility has not already been redetermined on the basis of your changed income.

This decision has no effect on any Marketplace determination issued after September 5, 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]