



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

## Notice of Decision

Decision Date: December 3, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000928

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 30, 2014, you appeared by telephone at a hearing on your appeal of a September 5, 2014 notice of eligibility determination from the NY State of Health Marketplace.

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

Decision Date: December 3, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000928

[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 [REDACTED] and her spouse were eligible for up to \$363.00 of advance premium tax credit as of September 3, 2014?

Did the Marketplace properly determine that [REDACTED] and her spouse were not eligible for Medicaid as of September 3, 2014?

## Procedural History

The Marketplace received your application on September 3, 2014.

On September 3, 2014, the Marketplace made a preliminary determination that you and your spouse were eligible to share an advance premium tax credit (APTC) of up to \$363.00 per month and eligible for cost-sharing reductions and that your three children were eligible for coverage through Child Health Plus at a premium cost of \$15.00 per month, per child.

That same day you spoke with Marketplace Customer Service and appealed the preliminary determination insofar as it found that the maximum APTC for yourself and your spouse was \$363.00 per month.

On September 5, 2014, the Marketplace issued a notice of eligibility determination for yourself and your spouse. It said that, based upon a household income of \$64,855.16, you and your spouse were eligible to enroll in a qualified

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health plan with up to \$363.00 per month of advance premium tax credit (APTC), and, if you selected a silver-level plan, to receive cost-sharing reductions (CSR). It also stated that you had a special enrollment period until October 30, 2014, to enroll in a health care plan. However, you and your spouse were not eligible for Medicaid since your household income exceeded the income limit for that program.

On September 30, 2014, you and your spouse 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 as additional evidence: (1) a termination notice from your spouse's former employer, dated July 14, 2014, indicating the last day of his employment, and (2) a Notice of Determination issued to your spouse by the New York State Department of Labor, indicating that a claim for unemployment benefits had been denied. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you provided the above referenced documents to the Appeals Unit through your Marketplace online account. As a result, the record was closed on September 30, 2014.

## **Findings of Fact**

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

- 1) You and your spouse have three dependent children who are between the ages of 1 and 19 (NYSOH Exhibit A, pgs. 1-6; Appellant testimony 9/30/14).
- 2) You and your spouse expect to file a U.S. Income Tax return for the 2014 tax year as "married filing jointly" and to claim your three children as dependents (NYSOH Exhibit A, pg. 1; Appellant testimony 9/30/14).
- 3) You live in Rockland County, New York (NYSOH Exhibit A, pg. 1; Appellant testimony 9/30/14).
- 4) You testified that since your children are covered by Child Health Plus, only you and your spouse now need health insurance through the Marketplace.
- 5) You testified that you have not been employed since 2004.
- 6) Your spouse testified that he worked for the [REDACTED] from March 25, 1997 until July 17, [REDACTED]

2014, when he was discharged. This is consistent with information provided on a [REDACTED] that was uploaded to your account on September 30, 2014.

- 7) He further testified, and the record reflects, that prior to his termination, he earned \$64,885.16 from his former employer during 2014 (NYSOH Exhibit A, pg. 15).
- 8) Your spouse testified that he applied for unemployment insurance benefits on or about July 17, 2014 and that his application was denied. This is consistent with the September 22, 2014 notice from the New York State Department of Labor that was uploaded to your account on September 30, 2014.
- 9) Your spouse testified that he has not received any income since July 26, 2014, and that while the appeal of his discharge is pending he does not expect to receive any additional income during 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 and Cost-Sharing Reductions

The maximum amount of advance premium tax credit (APTC) that can be approved equals:

- 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*

- the taxpayer's expected contribution amount

(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 towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on household's income (26 USC § 36B(b)(3)(A)).

For household income in the range of at least 200% of the relevant Federal Poverty Level (FPL) but less than 250% FPL, the expected contribution is from 6.30% to 8.05% of the household income (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 \$27,570.00 for a five-person household (78 Fed. Reg. 5182, 5183).

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 Eligibility

Medicaid through the Marketplace can be provided 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), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

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 \$27,910.00 for a five-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 (APTC) of up to \$363.00 per month.

In the application that was submitted on September 3, 2014, you attested to an expected yearly income of \$64,855.16, and the eligibility determination relied upon that information.

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According to the record, for the 2014 tax year you expect to file your income tax return as married filing jointly and to claim three dependents. Therefore, for purposes of this decision you are a five-person household.

You reside in Rockland County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$770.38 per month.

An annual income of \$64,855.16 is 235.35% of the 2013 federal poverty level (FPL) for a five-person household. At 235.35 % of the FPL, the expected contribution to the cost of the health insurance premium is 7.54 % of income, or \$407.51 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$770.38 per month) minus your expected contribution (\$407.54 per month), which equals \$362.84 per month.

Therefore, to the nearest dollar, the Marketplace correctly computed your APTC to be \$363.00 per month, given the information that was available at that time.

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 \$64,855.15 is 235.35% 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 138.0% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$27,910.00 for a five-person household. Since \$64,855.15 is 232.37% 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.

Since the September 5, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$363.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is **AFFIRMED**.

However, during your hearing your spouse testified that because he was terminated from his position in late July of 2014, that his claim for unemployment benefits was denied on September 22, 2014, and that the 2014 expected annual household income of \$64,855.16 no longer reflects your current income situation. The credible testimony and documentary evidence of record supports a finding that your household income was \$0.00 for the month of September 2014.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is 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 September 2014.

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

## **Decision**

The September 4, 2014 eligibility determination is AFFIRMED.

However, your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on your monthly income from September of \$0.00 and a household of five people residing in Rockland County.

**Effective Date of this Decision:** December 3, 2014

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

This decision does not change your eligibility.

You remain eligible for \$363.00 per month in advance premium tax credit and remain eligible for cost-sharing reductions.

Your case is being returned to the Marketplace for a redetermination of your eligibility for financial assistance based on your five-person household in Rockland County and September 2014 income of \$0.00.

## **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:

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- 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 September 4, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You remain eligible for \$363.00 per month in advance premium tax credit and remain eligible for cost-sharing reductions.

However, your case is being returned to the Marketplace for a redetermination of your eligibility for financial assistance based on your five-person household in Rockland County and September 2014 income of \$0.00.

## **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]