



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

### Notice of Decision

Decision Date: January 13, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000932

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On September 30, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s September 6, 2014, September 9, 2014, and September 11, 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 letter.

### 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: AP000000000932

[REDACTED]  
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## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that, as of September 5, 2014 and September 10, 2014, you were eligible for an advance premium tax credit of up to \$214.00 per month?

Did the Marketplace properly determine that, as of September 5, 2014 and September 10, 2014, you were eligible for cost-sharing reductions if you enrolled in silver level health plan?

Did the Marketplace properly determine that, as of September 5, 2014 and September 10, 2014, you were not eligible for Medicaid?

## Procedural History

The Marketplace received your application for health insurance on September 5, 2014. The Marketplace prepared a preliminary eligibility determination that found you temporarily eligible for up to \$214.00 per month in advance premium tax credit (APTC). You were also found temporarily eligible for cost-sharing reductions (CSR), if you enrolled in a silver-level health plan.

On September 5, 2014, you spoke with the Marketplace's Account Review unit and appealed that preliminary eligibility determination.

On September 6, 2014, an eligibility determination was issued that was consistent with the preliminary determination. The notice stated that you were temporarily eligible for up to \$214.00 per month in APTC and you continued to be

eligible for CSR. You were asked to provide additional information on your citizenship status.

On September 5, 2014, you uploaded the requested documentation and your eligibility determination was finalized in notices issued on September 9, 2014 and September 11, 2014.

On September 30, 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 additional evidence of your income. On October 10, 2014, you uploaded the requested documentation to your Marketplace account, including a lease of a rental property and receipts for rent you received from that lease, and the record was closed.

## **Findings of Fact**

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

- 1) In your application you stated that you were divorced.
- 2) You testified that you plan on filing your 2014 tax return as head of household and will claim no dependents on that tax return.
- 3) You testified that you are currently unemployed.
- 4) Your application stated that you have an expected annual income of \$27,000.00. You testified that this figure is incorrect.
- 5) You testified that your actual expected annual income is \$25,000.00.
- 6) You testified and provided evidence that your only form of income is money that you receive from a rental property. You provided evidence that you receive \$2,250.00 every month in rental income.
- 7) You testified that you have received \$2,250.00 every month since at least January 1, 2014. You further testified and provided evidence that you will continue to receive \$2,250.00 every month for the rest of 2014.
- 8) You testified that you do not plan to take any tax deductions on your 2014 tax return.
- 9) Your application states that you reside in Westchester County.

10) You testified that you had Medicaid through the Local Department of Social Services. Your Medicaid was discontinued because the qualifications for the Medicaid program you were enrolled in had changed.

11) You testified that you would like to be found Medicaid eligible through the Marketplace because you cannot afford any sort of insurance premium because you have a lot of medical expenses, including \$1,900.00 for medication.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan (QHP) 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 QHP, 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)).

Eligibility for APTC is based on the taxpayer's modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a)). Generally, MAGI is your adjusted gross income plus any non-taxable social security income, non-taxable interest income, and non-taxable foreign income that you receive (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)). "Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Living expense, such as rent and utilities, are not allowable deductions in computing adjusted gross income.

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 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 household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 200% but less than 250% of the 2013 FPL, the expected contribution is between 6.30% and 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 \$11,490.00 for a one-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 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 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 MAGI that is at or below 138% of the FPL 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 or not the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$214.00 per month.

In the application that was submitted on September 5, 2014, you attested to an expected yearly income of \$27,000.00, and the eligibility determination relied upon that information.

You testified that this amount is incorrect and that your annual expected income is actually \$25,000.00. However, the evidence and testimony that you provided reflects a monthly income of \$2,250.00. You testified that you will receive this amount every month in 2014. You also testified that you do not plan on taking any deductions on your 2014 income. Therefore, your annual expected income is \$27,000.00 as stated in the September 6, 2014, September 9, 2014, and September 11, 2014 eligibility determinations, and not \$25,000.00 as you testified.

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

You reside in Westchester County, where the second lowest cost silver plan that is available to an individual through the Marketplace costs \$383.18 per month.

An annual income of \$27,000.00 is 234.99% of the 2013 FPL for a one-person household. At 234.99% of the FPL, the expected contribution to the cost of the health insurance premium is 7.52% of income, or \$169.20 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$383.13 per month) minus your expected contribution (\$169.20 per month), which equals \$213.93 per month. Therefore, rounding to the nearest dollar, you would be eligible for up to \$214.00 per month in APTC.

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

CSRs are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$27,000.00 is 234.99% of the 2013 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

The third issue is whether or not you are eligible for Medicaid.

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 \$27,000.00 is 231.36% 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.

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Since the September 6, 2014, September 9, 2014, and September 11, 2014 eligibility determinations properly stated that, based on the information you provided, you were eligible for APTC of up to \$214.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, they are correct and are AFFIRMED.

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 an income no greater than 138% of the FPL, which is \$1,342.05 per month. Since your income was \$2,250.00 for each month of 2014, you did not qualify for Medicaid on the basis of monthly income.

## **Decision**

The September 6, 2014, September 9, 2014 and September 11, 2014 eligibility determinations are AFFIRMED.

**Effective Date of this Decision:** January 13, 2015

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

You remain eligible for \$214.00 per month in advance premium tax credits.

You remain eligible for cost-sharing reductions if you enroll in silver level health plan.

## **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.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be

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done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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.

### **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 6, 2014, September 9, 2014 and September 11, 2014 eligibility determinations are AFFIRMED.

You remain eligible for \$214.00 per month in advance premium tax credits.

You remain eligible for cost-sharing reductions if you enroll in silver level health plan.

### **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]