



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: AP000000000936

[REDACTED]  
[REDACTED] [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 August 29, 2014 and September 5, 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).

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: AP000000000936

## Issues

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

Did the Marketplace properly determine that, as of August 28, 2014, you and your daughter were eligible to share an advance premium tax credit of up to \$530.00 per month, eligible for cost-sharing reductions if you enrolled in silver level health plan, and ineligible for Medicaid?

## Procedural History

The Marketplace received your application for health insurance on July 16, 2014.

On July 17, 2014 and July 23, 2014 notices were issued stating that you and your daughter might be eligible for health insurance through the Marketplace, but that more information was needed to make a determination. You were asked to provide more information about your income.

On August 26, 2014, the Marketplace received documentation regarding your daughter's employment.

On August 28, 2014, eligibility for you and your daughter was redetermined using on the income information you provided.

On August 29, 2014 and on September 5, 2014 eligibility determination notices were issued. The notices stated that you and your daughter were eligible to share up to \$530.00 per month in advance premium tax credit. Both of you were also eligible for cost-sharing reductions while enrolled in a silver-level health plan. You and your daughter were not eligible for Medicaid because your

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household income of \$25,600.00 was over the allowable income limit of \$21,707.00.

On September 8, 2014, you spoke with the Marketplace's Account Review unit and appealed those 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 closed at the end of the hearing

## **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 will claim your daughter as a dependent on that tax return.
- 2) You testified that you have worked at your current job since 2008.
- 3) You testified that up until September 19, 2014 you earned \$475.00 per week.
- 4) You testified that as of September 20, 2014 you began earning \$525.00 per week.
- 5) Your modified application of August 28, 2014 lists an annual expected income for 2014 of \$25,600.00. This amount consists of \$24,700.00 in income from a job and \$900.00 in other income.
- 6) You testified that the \$900.00 in other income is from a job you worked in 2013. You will not have \$900.00 in other income for the 2014 tax year.
- 7) Your application states that your daughter is 19 years old.
- 8) You testified that [REDACTED] has no income.
- 9) Your application states that you and your daughter reside in Queens County.
- 10) You testified that you are appealing the eligibility determinations for both you and your daughter.
- 11) You testified that you believe you and your daughter should be Medicaid eligible.

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 (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), 435.911(b)(1), 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 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 for the 2014 tax year 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 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)).

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 \$15,510.00 for a two-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 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 (FPL) for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits must 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 by the Department of Health and Human Services, March 19, 2014).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you and your daughter were eligible for advance premium tax credit (APTC) of up to \$530.00 per month.

In your August 28, 2014 application, you attested to an expected yearly income of \$25,600.00, and the eligibility determination relied upon that information.

According to the record, there are two people in your household, yourself and your daughter.

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace costs \$629.89 per month.

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An annual household income \$25,600.00 equals 165.05% of the 2013 federal poverty level (FPL) for a two-person household. At 165.05% of the FPL, the expected contribution to the cost of the health insurance premium is 4.69% of income, or \$100.05 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$629.89 per month) minus your expected contribution (\$100.05 per month), which equals \$529.84 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$530.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since a household income of \$25,600.00 is 165.05% 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 the 2014 FPL of \$15,730.00 for a two-person household. Since \$25,600.00 is 162.75% 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 August 29, 2014 and September 5, 2014 eligibility determinations properly stated that, based on the information you provided in your application, you were eligible for APTC of up to \$530.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, they are correct and are AFFIRMED.

However, during your hearing you provided additional information that permits a more accurate picture of your 2014 earned income. On your application you indicated an expected income of \$25,600.00. This amount consisted of \$24,700.00 in earned income from a job and \$900.00 in other income. You testified that the \$900.00 in other income was earned in 2013 and will not be claimed on your 2014 tax return.

You also testified that as of September 20, 2014, your wages increased from \$475.00 per week to \$525.00 per week. Since you will have worked 14 weeks at \$525.00 per week (\$7,350.00) and 38 weeks at \$475.00 per week (\$18,050.00), your household's expected annual income for 2014 is now \$25,400.00, a difference of \$200.00 for the year.

If your actual income for 2014 does not match the income you expected when you submitted your application, the APTC you claim for 2014 may not equal the

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APTC that you received during the year. This difference should be reconciled on your federal individual income tax return.

## **Decision**

The August 29, 2014 and September 5, 2014 eligibility determinations are AFFIRMED.

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

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

Your eligibility has not changed.

You and your daughter remain eligible, collectively, for \$530.00 per month in advance premium tax credit and for cost-sharing reductions, provided you are enrolled in a silver level health plan, but not eligible for Medicaid coverage.

## **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.

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## **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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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The August 29, 2014 and September 5, 2014 eligibility determinations are **AFFIRMED**.

Your eligibility has not changed.

You and your daughter remain eligible, collectively, for \$530.00 per month in advance premium tax credit and for cost-sharing reductions, provided you are enrolled in a silver level health plan, but not eligible for Medicaid coverage.

## **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]