



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

## Notice of Decision

Decision Date: December 29, 2014

[REDACTED]  
Appeal Identification Number: AP000000000965

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

On October 15, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 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).

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DEPARTMENT OF HEALTH  
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### Decision

Decision Date: December 29, 2014

[REDACTED]  
Appeal Identification Number: AP000000000965

[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] were eligible for advanced premium tax credit in the amount of \$95.00 as of September 8, 2014?

Did the Marketplace properly determine that [REDACTED] were not eligible for cost sharing reductions and not eligible for Medicaid as of September 8, 2014?

### Procedural History

The Marketplace received your application for health insurance on September 8, 2014 based on annual household income of \$57,530.00.

On September 9, 2014, the Marketplace issued a notice of eligibility determination stating that based on an annual household income of \$57,530.00, [REDACTED] are eligible to enroll in a qualified health plan (QHP) and eligible to receive up to \$95.00 monthly of advance premium tax credit (APTC). The notice also stated that you are not eligible for cost-sharing reductions or Medicaid because your household income is over the allowable limit for those programs.

On September 9, 2014, you spoke to the Marketplace’s Account Review Unit and submitted an appeal request.

On September 11, 2014, your Marketplace application was resubmitted for you by Marketplace Customer Service. The application indicated that you wanted health insurance but that your husband did not.

On September 12, 2014, the Marketplace issued a notice of eligibility determination on the September 11, 2014 application. It states that you are eligible for APTC of \$0.00 per month and ineligible for cost-sharing reductions and Medicaid.

On October 15, 2014, you appeared for your telephone hearing. Testimony was taken at the hearing. The record was held open until October 20, 2014 to allow you to submit additional documentation.

On October 15, 2014, you submitted your own direct deposit statements from [REDACTED] and your husband's history of unemployment insurance benefit claims with the New York State Department of Labor. The evidence was collectively made part of the record as "Appellant's Exhibit A," and the record was closed. The record is now complete and closed.

## **Findings of Fact**

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

1. You testified that you and your husband are applying for health insurance through the Marketplace.
2. You testified that you plan on filing a 2014 federal income tax return with the tax status of married filing jointly and not claim any dependents on that return.
3. According your September 8, 2014 Marketplace application, your 2014 expected income is \$57,530.00. You expected \$20,000.00 in earned income and \$3,000.00 in deductions. Your husband expected \$30,000.00 in earned income and \$10,530.00 in unemployment insurance benefits.
4. You testified that you work as a substitute teacher for [REDACTED].
5. You testified that you expect your 2014 income to be \$18,000.00.
6. On October 15, 2014, you submitted three direct deposit statements: a check dated September 12, 2014 with gross earnings of \$228.00; a check dated September 26, 2014 with gross earnings of \$1,140.00, and a check dated October 10, 2014 with gross earnings of \$1,026.00.

7. You testified that your husband was unemployed as of July 13, 2014.
8. You testified that your husband earned \$30,000.00 from January 1, 2014 through July 13, 2014.
9. On October 15, 2014, you submitted your husband's history of unemployment insurance benefit claims with the New York State Department of Labor. The history indicates that a weekly benefit amount of \$405.00 was received on: August 3; August 10; August 17; August 24; August 31; September 7; September 14; September 21; September 28, and October 5, 2014. It also indicates that your husband received a weekly benefit amount of \$420.00 on October 12, 2014 (Appellant's Exhibit A).
10. You applied for health insurance through the Marketplace in September 2014.
11. According to your Marketplace application, you reside in Erie County, New York.
12. According to your Marketplace application, neither you nor your husband currently receives Medicaid benefits.

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; (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

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 300% but less than 400% of the 2013 FPL, the expected contribution is between 9.50% and 9.50% 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 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

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 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 \$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 may be based on current monthly household income and

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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 an advance premium tax credit (APTC) of up to \$95.00 per month.

In the application that was submitted on September 8, 2014, you attested to an expected yearly income of \$57,530.00, and the eligibility determination relied upon that information.

According to the record you are a member of a two-person household.

You reside in Erie County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$550.70 per month.

An annual household income of \$57,530.00 equals 370.92% of the 2013 FPL for a two-person household. At 370.92% of the FPL, the expected contribution to the cost of the health insurance premium is 9.50% of income, or \$455.45 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$550.70 per month) minus your expected contribution (\$455.45 per month), which equals \$95.25 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$95.00 per month.

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 \$57,530.00 is 370.92% of the 2013 FPL, the Marketplace correctly found you to be ineligible 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 \$15,730.00 for a two-person household. Since \$57,530.00 is 365.73% 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 9, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$95.00 per month,

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not eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, at the hearing you testified that your 2014 expected household income no longer reflects your current income situation and that you would like your financial eligibility reconsidered.

You credibly testified that you currently work as a substitute teacher for [REDACTED] and expect to earn \$18,000.00 from this position in 2014. Furthermore, you testified that your husband earned \$30,000.00 from his former employer from the period of January 1, 2014 through July 13, 2014. On October 15, 2014, you submitted your husband's history of unemployment insurance benefit claims with the New York State Department of Labor. The history indicates that your husband is entitled to a weekly benefit amount of \$405.00 and the first payment was received on August 3, 2014. He received 10 payments of benefits at that rate, the last on October 5, 2014. Beginning with the October 12, 2014 payment, his benefit rate increased to \$420.00 per week. Since he would be entitled to claim up to 22 weeks of benefits during 2014, a reasonable estimate of his unemployment benefits for 2014 would be \$9,090.00 (\$405.00 x 10 plus \$420.00 x 12).

According to the evidence you provided on appeal, your 2014 income may be slightly lower than the amount reported on your September 8, 2014 Marketplace application. This difference could increase the amount of your tax credit. However, when you take less tax credit in advance than you are entitled to claim on your federal income tax return, you may claim the balance as a credit on your tax return.

The record indicates that the only income you received during September 2014, the month of your application, consisted of your earned income and your husband's unemployment benefits. According to your direct deposit statements you received two paychecks in September with gross earnings of \$228.00 on September 12th, and gross earnings of \$1,140.00 on September 26th, for a total of \$1,368.00. According to your husband's history of unemployment benefits, he received four payments of \$405.00 each during the month of September for a total of \$1,620.00.

Your September earned income of \$1,368.00 plus your husband's September unemployment benefits of \$1,620.00 equals \$2,988.00. Therefore, your September 2014 monthly household income was \$2,988.00.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. The financial limit for Medicaid for adults aged 19 to 65 is 138% of the FPL, which is \$1,809.00 per month. Since your income was \$2,988.00 for



September 2014, you did not qualify for Medicaid on the basis of monthly income when you submitted your application.

Since the September 9, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$95.00 per month, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

Additionally, the record indicates that on September 11, 2014, an application was submitted indicating that you needed insurance but that your husband did not. You credibly testified during the hearing that both you and your husband want insurance through the Marketplace. Since the September 12, 2014 eligibility determination was based on this defective information it is not supported by the record and is RESCINDED.

## **Decision**

The September 9, 2014 eligibility determination is AFFIRMED.

The September 12, 2014 eligibility determination is RESCINDED.

**Effective Date of this Decision:** December 29, 2014

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

This decision does not change your eligibility.

You are eligible for an advance premium tax credit of up to \$95.00 per month.

You are not eligible for cost-sharing reductions or Medicaid.

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

The September 12, 2014 eligibility determination is RESCINDED.

You are eligible for an advance premium tax credit of up to \$95.00 per month.

You are not eligible for cost-sharing reductions or Medicaid.

### **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]