



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

## Notice of Decision

Decision Date: January 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001023

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On October 17, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 24, 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: January 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001023

[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 are eligible to receive an advance premium tax credit of up to \$173.00 per month as of September 23, 2014?

Did the Marketplace properly determine that you are not eligible for cost-sharing reductions or Medicaid on September 23, 2014?

## Procedural History

The Marketplace received your application on September 8, 2014, which you updated on September 23, 2014.

On September 23, 2014, the Marketplace prepared a preliminary redetermination. It found you eligible to receive an advance premium tax credit of up to \$173.00 per month and, if enrolled in a silver-level qualified plan, for-cost sharing reductions.

On September 24, 2014, the Marketplace issued a written eligibility redetermination that was consistent with the September 23, 2014 preliminary redetermination. It also said that you are not eligible for Medicaid because your reported household income of \$29,120.00 is over the allowable income limit of \$16,105.00.

That same day, you spoke with a representative in the Marketplace's Account Review Unit and appealed that determination.

On October 17, 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 income and health insurance documents.

On November 4, 2014, the Marketplace's Appeals Unit received a 3 page fax from you. It consisted of 1) a cover page; 2) a certificate regarding loss of Medicaid coverage; and 3) a copy of a recent pay stub. This fax was made part of the record as "Appellant's Exhibit A." Since this was the evidence you were directed to provide, the record was closed that same day.

## **Findings of Fact**

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

- 1) You are single and reside in Queens County, New York.
- 2) You plan on filing your 2014 tax return as single, will not be claiming any dependents, and do not expect to be claimed as a dependent on anyone else's tax return.
- 3) You testified that your income changed during August 2014 because you changed jobs and you were no longer eligible for Medicaid.
- 4) You received a Certificate of Group Health Plan Coverage from New York State Department of Health that your Medicaid coverage ended on September 14, 2014 (Appellant's Exhibit A, p.2).
- 5) According to your Marketplace application, you reported that your expected 2014 earned income is based on \$14.00 per hour at 40 hours per week, or \$29,120.00.
- 6) You testified that your work hours fluctuate from week to week and that you work 40 hours every other week and 36 hours on the alternate weeks.
- 7) Your October 24, 2014 direct deposit advisory from your employer, [REDACTED], shows that you worked 70 hours during the pay period of October 4, 2014 to October 17, 2014, were paid at the rate of \$14.30 per hour, had gross earnings of \$1,115.40, and had year-to-date earnings of \$25,051.19 (Appellant's Exhibit A, p.3).

- 8) You testified that you cannot afford to pay an insurance premium on your current monthly income and in addition to your child support obligations. You would like your eligibility for Medicaid to be reconsidered.
- 9) You testified that if you are not found Medicaid eligible that you might want to consider filing for a hardship exemption.

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 (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 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 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 250% but less than 300% of the 2013 FPL, the expected contribution is between 8.05% 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 \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

### Cost-Sharing Reductions

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a qualified health plan 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 qualified health plan (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 (MAGI) that is at or below 138% of the 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 \$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).

## Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan. Such an exemption may be granted if that person can show that he experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a qualified health plan; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a qualified health plan; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605(a), (g)).

NY State of Health currently defers to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit of up to \$173.00 per month.

In the application that was updated on September 23, 2014, you attested to an expected yearly income of \$29,120.00, and the eligibility determination relied upon that information.

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

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$370.52 per month.

An annual household income of \$29,120.00 equals 253.44% of the 2013 federal poverty level for a one-person household. At 253.44% of the federal poverty level, the expected contribution to the cost of the health insurance premium is 8.14% of income, or \$197.65 per month.

The maximum amount of advance premium tax credit that can be awarded equals the cost of the second lowest cost silver plan in your county (\$370.52 per month) minus your expected contribution (\$197.65 per month), which equals \$172.87 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your advance premium tax credit to be \$173.00 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 \$29,120.00 is

253.44% 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 (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 \$29,120.00 is 249.53% 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 24, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$173.00 per month, and not eligible for cost-sharing reductions or Medicaid, it is correct and is AFFIRMED.

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

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 must meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,343.00 per month.

You credibly testified and provided documentary proof that you are paid every two weeks and are paid \$14.30 for 70 hours on average, which equals \$1,001.00 gross earnings per pay period. This is consistent with your October 24, 2014 direct deposit advisory. That advisory shows that you also received 4 hours vacation/sick pay and 4 hours rollover at \$57.20 each, for gross earnings for the two week pay period of \$1,115.40.

According to the evidence in the record, you are paid at least \$1,001.00 every two weeks, which you receive at least twice each month. This permits an inference that your income is at least \$2,002.00 per month. Since your income of at least \$2,002.00 per month exceeds the maximum monthly allowable income limit of \$1,343.00, you do not qualify for Medicaid on the basis of monthly income.

You stated that, even with APTC and cost-sharing reductions, you cannot afford to pay for the monthly premium of silver-level health plan. If you wish to be considered for a hardship exemption from paying a penalty for not having health insurance for part of 2014, you can consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

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).



## **Decision**

The September 24, 2014 eligibility determination, as made on September 23, 2014, is AFFIRMED.

You remain eligible to receive an advance premium tax credit of up to \$173.00 per month.

**Effective Date of this Decision:** January 14, 2015

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

You remain eligible to receive an advance premium tax credit of up to \$173.00 per month and cost sharing reductions.

You are not eligible for Medicaid.

If you wish to be considered for a hardship exemption from paying a penalty for not having health insurance for part of 2014, you can consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **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 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

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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 24, 2014 eligibility determination, as made on September 23, 2014, is AFFIRMED.

You remain eligible to receive an advance premium tax credit of up to \$173.00 per month.

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

If you wish to be considered for a hardship exemption from paying a penalty for not having health insurance for part of 2014, you can consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **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]