



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

## Notice of Decision

Decision Date: June 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001443

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 10, 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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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001443

[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 you individually were eligible to receive an advance premium tax credit (APTC) of up to \$194.00 per month and eligible for cost-sharing reductions, effective January 1, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid, effective January 1, 2015?

## Procedural History

The Marketplace received your modified application for health insurance on December 9, 2014, in which you attested to an annual household income of \$29,930.68.

On December 10, 2014, the Marketplace issued a notice of eligibility determination based on your December 9, 2014 application. It stated, among other things, that you, individually, were eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$194.00 per month; and, if you selected a silver-level plan, eligible for cost sharing reductions (CSR). The notice further stated that you were not eligible for Medicaid.

On January 12, 2015, you spoke with the Marketplace's Account Review Unit to appeal the December 10, 2014 eligibility determination.

On February 11, 2015, you had a telephone hearing with a Hearing Officer from

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the Marketplace's Appeals Unit. The record was developed during the hearing and remained open, because the Hearing Officer directed you to provide the following additional evidence to corroborate your testimony: (1) earnings statements reflecting income you received during December 2014 and (2) an updated New York State Department of Labor Unemployment Benefits Online history snapshot reflecting your domestic partner's weekly award and benefits received during December 2014. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On February 12, 2015, you provided four earnings statements issued to you by your employer, [REDACTED] and an Unemployment Benefits Online history snapshot, current as of February 12, 2015.

Accordingly, the record was closed as of February 12, 2015.

## **Findings of Fact**

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

- 1) You testified that you live with your domestic partner and your 19-year-old son.
- 2) You testified that you are seeking health insurance coverage only for yourself, because your domestic partner and son are currently receiving Medicaid benefits through the Marketplace.
- 3) You testified, and your application indicates, that you expect to file a 2015 U.S. Income Tax Return, file as "Head of Household," and claim both your domestic partner and son as dependents.
- 4) You currently reside in Erie County, New York.
- 5) You attested in your application that you are currently employed by [REDACTED] and earn \$26,446.68 per year, or \$508.59 per week.
- 6) You attested in your application that your domestic partner is receiving \$134.00 per week in unemployment benefits for a period of 26 weeks.
- 7) On January 26, 2015, you provided earnings statements issued to you by [REDACTED] reflecting that you received (1) \$514.50 on December 12, 2014, (2) \$420.00 on December 19, 2014, (3) \$514.50 on December 24, 2014, and (4) \$169.79 on December 31, 2014.

- 8) On January 26, 2015, you provided an Unemployment Benefits Online history snapshot issued to your domestic partner by New York State Department of Labor, current of as February 12, 2015, reflecting that she received four payments of \$134.00 during the month of December 2014.
- 9) You testified that it is difficult for you to afford health insurance through the Marketplace based on your current income and monthly expenses, and would like to be considered for an increased tax credit or Medicaid coverage.

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 applicable 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)).

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 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3(g)(1), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

### 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 (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 \$19,790.00 for a three-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 to receive an advance premium tax credit (APTC) up to \$194.00 per month and eligible for cost sharing reductions (CSR).

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In the application that was submitted on December 9, 2014, you attested to an annual household income \$29,930.68, which is the sum of your attested expected yearly earnings of \$26,446.68 and your domestic partner's expected receipt of \$3,484.00 in unemployment benefits during 2015. The Marketplace's determination relied on that information.

According to the record, you are in a three-person tax household since you expect to file a 2015 U.S. Income Tax return, file as "head of household" and claim your domestic partner and son as dependents.

You reside in Erie County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$295.03 per month.

An annual household income of \$29,930.68 is 151.24% of the 2014 federal poverty level (FPL) for a three-person household. At 151.24% of the FPL, the expected contribution to the cost of the health insurance premium is 4.08% of income, or \$101.76 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$295.03 per month) minus your expected contribution (\$101.76 per month), which equals \$193.27 per month. Therefore rounding to the nearest dollar, you would be eligible for an APTC up to \$193.00 per month,

The Marketplace computed your APTC by rounding \$193.33 to the next highest dollar, \$194.00. It therefore incorrectly calculated your APTC by \$1.00. However, since the APTC you were determined eligible for under the December 10, 2014 determination is not materially greater than your actual APTC eligibility, which was due to the rounding anomaly noted above, the difference is properly reconciled as a tax liability on a federal individual income tax return.

The second issue under appeal is whether the Marketplace properly determined that you were eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 151.24% of the 2014 FPL, you were correctly found to be eligible for CSR.

The final issue under appeal is whether the Marketplace properly determined that you were not 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

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\$19,790.00 for a three-person household. Since \$29,930.68 is 151.24% 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 December 10, 2014 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for an APTC up to \$194.00 per month, eligible for cost-sharing reductions and not eligible for Medicaid, it is correct and is 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 \$2,275.85 per month.

In addition to evidence of weekly unemployment benefits received by your domestic partner during the month December 2014, the Hearing Officer required that you provide all earnings statements reflecting income you received, not accrued, during the month of December 2014. The evidence of record reflects that while you provided the Appeals Unit four earnings statements indicating that you received a total of \$1,618.79 during the month of December 2014, this is based on incomplete information. You testified that you are paid on a weekly basis by [REDACTED]. Indeed, on January 26, 2015, you provided earnings statements issued to you by [REDACTED] on December 12, 2014, December 19, 2014, December 24, 2014, and December 31, 2014. However, since you are paid on a weekly basis, you would have received an additional payment on December 7, 2014.

Since you did not provide the requested documents, we are unable to assess whether you qualify for Medicaid on the basis of monthly income when you submitted your December 9, 2014 application.

## **Decision**

The December 10, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** June 8, 2015

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

Since the December 10, 2014 eligibility determination, you were subsequently found eligible for Medicaid because your income had changed. This subsequent



eligibility determination will not be affected by the current decision regarding your appeal of the December 10, 2014 eligibility determination.

## **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 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 December 10, 2014 eligibility determination is **AFFIRMED**.

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Since the December 10, 2014 eligibility determination, you were subsequently found eligible for Medicaid because your income had changed. This subsequent eligibility determination will not be affected by the current decision regarding your appeal of the December 10, 2014 eligibility determination.

## **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]