



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

## Notice of Decision

Decision Date: July 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001532

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 22, 2015 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

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001532

[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 are eligible to receive an advance premium tax credit of up to \$325.00 per month?

Did the Marketplace properly determine that you are eligible for cost sharing reductions if you enroll in silver level health plan?

Did the Marketplace properly determine that you are not eligible for Medicaid?

## Procedural History

The Marketplace received three applications for health insurance on January 21, 2015.

In two of these January 21, 2015 applications, you attested to being married but having a tax filing status of "single." The Marketplace responded to each of your on-line applications; in the first instance by indicating that your eligibility could not be determined on the available information and directing you to provide additional information, and in the other instance by finding you were not eligible for financial assistance.

In your third January 21, 2015 application, you attested to being divorced and having a tax filing status of "single." In response to this application, the Marketplace prepared a preliminary eligibility determination on January 21, 2015 finding you eligible for an advance premium tax credit (APTC) of up to \$325.00

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per month and, if you enrolled in a silver level health plan, cost-sharing-reductions (CSR). This eligibility was effective March 1, 2015.

Also on January 21, 2015, you spoke with the Marketplace's Account Review Unit to appeal the January 21, 2015 preliminary eligibility determination.

On January 22, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible to enroll in a qualified health plan (QHP), newly eligible to receive an APTC of up to \$325.00 per month and, if you selected a silver-level plan, newly eligible to receive CSR. This eligibility was effective March 1, 2015. It also found that you were not eligible for Medicaid because your income was over the allowable limit for that program.

On February 20, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony earning statements reflecting income you received during month of your application, January 2015. The record was to be closed 15 days after the hearing date, March 7, 2015, or upon the receipt of the above referenced documents, whichever occurred earlier.

No documents were received by the Appeals Unit by March 7, 2015. As a result, the record was closed as of that date.

## **Findings of Fact**

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

- 1) You testified that you live alone.
- 2) You attested in your January 21, 2014 application, upon which the January 21, 2015 preliminary eligibility determination is based, that you are divorced.
- 3) However, you testified that you have been separated from your spouse since approximately 1990, and that she now lives in the State of New Jersey. You further testified that you have neither obtained a divorce decree nor an order of separation, and that you are still married.
- 4) You testified that you are seeking health insurance coverage only for yourself under your Marketplace account.
- 5) You testified, and your application indicates, that you expect to file your 2015 taxes as "single" with no claimed dependents.

- 6) You currently reside in New York County, New York.
- 7) In your application you attested to earning \$16,349.21 from [REDACTED].
- 8) You testified that you are paid on a weekly basis, and that the amount you work varies depending on the work available.
- 9) You testified that your reported \$16,349.21 in earnings reflect your total income during 2014, and was only this much because there was a significant increase in work during the month of December 2014. You further testified that you typically earn only \$10,000.00 per year.
- 10) You testified that you were seeking Medicaid, in part, because you need coverage for dental procedures you expect to undergo shortly.

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)).

In general, a tax filer who is married is eligible for APTC only if he or she files a joint return with his or her spouse (45 CFR § 155.305(f), 45 CFR § 155.310(d), 26 CFR § 1.36B-2).

However, a tax filer will be treated as not married at the close of the taxable year if the tax filer:

- (1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- (2) Meets all of the following criteria:

- a. taxpayer files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child; and
- b. taxpayer pays more than one half of the cost of keeping up his/her home for the tax year; and
- c. taxpayer's spouse is not a member of the household during the last 6 months of the taxable year

(26 USC § 7703(a); 26 USC § 7703(b)).

### 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 first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 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).

## Legal Analysis

The first issue is whether the Marketplace properly determined that you are eligible to receive and advance premium tax credit (APTC) of up to \$325.00 per month and cost-sharing reductions (CSR).

In your application that was submitted on January 21, 2015, you attested to an expected yearly income of \$16,349.21, that you were divorced, and that you had a tax filing status of "single." The eligibility determination relied upon that information.

In general, to qualify for APTC, a person who is married must either file taxes jointly with his or her spouse or qualify as "not married" at the close of the tax year.

According to the documents in the record and your testimony at the hearing, you are still married, you are not legally separated from your spouse, and you do not plan to file a joint tax return with your spouse for the 2015 tax year. However, the record lacks sufficient facts to support a finding that you will be able to be treated as "not married."

Therefore, the credible evidence of record does not support a finding that you qualify to be treated as "not married" for purposes of this Decision. You are not eligible for an APTC at this time. Since you are not eligible for an APTC, you are also not eligible for CSR.

The last issue is whether the Marketplace properly determined that you are not eligible for Medicaid.

The record reflects that you are in a one-person household since you live alone.

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 \$16,349.21 is 140.10% 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.

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. On February 20, 2015, the Hearing Officer directed you to provide all earnings statement you received during the month of January 2015, prior to the record

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closing on March 7, 2015. Since you did not provide your earnings statements prior to the closing of the record, we are unable to assess whether you are eligible for Medicaid on the basis of monthly income.

Therefore, the January 22, 2015 eligibility determination is MODIFIED to reflect that you are not eligible for an APTC since you will not be filing taxes jointly with your spouse and not eligible for CSR since you do not qualify to receive an APTC. The January 22, 2015 eligibility determination properly found that you were not eligible for Medicaid.

Your case is RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based upon a one-person household in New York County, marital status of "married," tax filing status of "single," and verification through state and federal data sources that your expected annual earnings for 2015 are \$10,000.00.

## **Decision**

The January 22, 2015 eligibility determination, and the January 21, 2015 preliminary eligibility determination upon which it is based, is MODIFIED to reflect that you are not eligible for an advance premium tax credit (APTC) since you will not be filing taxes jointly with your spouse and not eligible for cost-sharing reductions since you do not qualify to receive an APTC. The January 22, 2015 eligibility determination properly found that you were not eligible for Medicaid.

Your case is RETURNED to the Marketplace for redetermination of your eligibility for financial assistance based upon a one-person household in New York County, marital status of "married," tax filing status of "single," and verification through state and federal data sources that your expected annual earnings for 2015 are \$10,000.00.

**Effective Date of this Decision:** July 10, 2015

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

You are not eligible for financial assistance at this time.

You remain eligible to enroll in a qualified health plan at full cost.

This is not your final determination. You will receive a new determination based on the record now available as a result of the hearing.

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).



## **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 January 22, 2015 eligibility determination, and the January 21, 2015 preliminary eligibility determination upon which it is based, is MODIFIED to reflect that you are not eligible for an advance premium tax credit (APTC) since you will not be filing taxes jointly with your spouse and not eligible for cost-sharing reductions since you do not qualify to receive an APTC. The January 22, 2015 eligibility determination properly found that you were not eligible for Medicaid.

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Your case is RETURNED to the Marketplace for redetermination of your eligibility for financial assistance based upon a one-person household in New York County, marital status of “married,” tax filing status of “single,” and verification through state and federal data sources that your expected annual earnings for 2015 are \$10,000.00.

You are not eligible for financial assistance at this time.

You remain eligible to enroll in a qualified health plan at full cost.

This is not your final determination. You will receive a new determination based on the record now available as a result of the hearing.

### **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]