



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

## Notice of Decision

Decision Date: July 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001745

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On March 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 24, 2015 preliminary 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: July 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001745

[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 were eligible to receive an advance premium tax credit of up to \$204.00 per month, effective March 1, 2015?

Did the Marketplace properly determine you are eligible for cost-sharing reductions, effective March 1, 2015?

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

## Procedural History

The Marketplace received your application for health insurance on January 24, 2015.

That same day, the Marketplace prepared a preliminary eligibility determination based on your January 24, 2015 application. It stated that you were eligible to receive an advance premium tax credit (APTC) of up to \$204.00 per month and, if you enrolled in a silver level health plan, eligible for cost-sharing reductions (CSR). This preliminary determination was based, in part, on an annual household income of \$20,655.03. No notice of eligibility determination was issued formalizing the findings made in the January 24, 2015 preliminary eligibility determination.

On February 10, 2015, you spoke with the Marketplace's Account Review Unit to appeal the January 24, 2015 preliminary eligibility determination.

On March 26, 2015, 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 are unmarried and live alone.
- 2) You testified, and your application indicates, that you expect to file your 2015 taxes as single and claim no dependents on that tax return.
- 3) You testified that you are seeking health insurance coverage only for yourself under your Marketplace account.
- 4) You live in Erie County, New York.
- 5) In your application, you attested to earning \$400.00 per week from your employer, [REDACTED]. You testified that your income had increased to \$457.00 per week as of December 2014.
- 6) You testified that you are paid once every two weeks and that your payments of approximately \$914.00 are received on a consistent basis.
- 7) Your application reflects that you intend to take a deduction of \$144.97 relating to student loan interest you expect to pay during 2015. You testified that this was an accurate estimate of your anticipated deduction for 2015 and was based upon your payment of student loan interest during 2014.
- 8) You testified that the health plans available through the Marketplace are unaffordable to you, in part because of your monthly living expenses, including rent, food, toiletries, and transportation.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

### Marketplace Eligibility Determinations

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person’s eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

The Marketplace is required to provide “timely written notice to an applicant of any eligibility determination” made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)).

An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

### 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).

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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-3T(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 \$11,670.00 for a one-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-3T(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 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 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

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).

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## Legal Analysis

You submitted an application on January 24, 2015 and the Marketplace made a preliminary eligibility determination that same day. The Marketplace did not issue a written determination in connection with that preliminary determination.

Although the Marketplace did not issue a timely notice of eligibility determination, this does not prevent the Appeals Unit from reaching the merits of your case on your February 10, 2015 appeal request. Under 45 CFR § 155.505(b), you are as entitled to appeal a Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Also, since the Appeals Unit reviews Marketplace determinations on a de novo basis, no deference would have been granted to that written determination had it been issued.

The first issue under appeal is whether the Marketplace properly determined that you are eligible to receive up to \$204.00 per month in advance premium tax credit (APTC).

In the application that was submitted on January 24, 2015, you attested to an expected yearly income of \$20,655.03, which was based on your anticipated earned income of \$20,800.00 (\$400.00 X 52 weeks) from [REDACTED] and an anticipated total student loan interest deduction of \$144.97 during 2015. The eligibility determination relied upon that information.

According to the record, you are the only person in your tax household since you expect to file a 2015 U.S. Income Tax return, file as single, and claim no 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 \$20,655.03 is 176.99% of the 2014 FPL for a one-person household. At 176.99% of the FPL, the expected contribution to the cost of the health insurance premium is 5.27% of income, or \$90.71 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 (\$90.71 per month), which equals \$204.32 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly found you eligible for APTC of up to \$204.00 per month.

The second issue under appeal is whether the Marketplace properly determined that you are 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 176.99% 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 are 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 \$11,770.00 for a one-person household. Since \$20,655.03 is 175.49% of the 2015 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 January 24, 2015 preliminary eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for APTC up to \$204.00 per month, eligible for CSR and ineligible for Medicaid, it is correct and is AFFIRMED.

During the hearing, you credibly testified that you actually began receiving \$457.00 per week in income beginning December 2014. You also testified that you are paid once every two weeks on a regular basis and receive \$914.00 per paycheck. Accordingly, it is reasonable to infer that you received \$1,828.00 in earned income during the month of your application, January 2015, which is reduced by a pro-rated portion the \$144.97 in expected student loan interest payments during 2015, or \$12.08.

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 \$1,354.00 per month. Since the credible evidence of record indicates your income was \$1,815.92 for January 2015, you did not qualify for Medicaid on the basis of monthly income when you submitted your January 24, 2015 application.

Based on the developed record as a result of this hearing, your case is RETURNED to the Marketplace to redetermine your eligibility for APTC and CSR based on an annual income of \$21,791.03 for a one-person household in Erie County, New York.

## **Decision**

The January 24, 2015 preliminary eligibility determination is AFFIRMED.

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).



The case is RETURNED to the Marketplace to redetermine your eligibility for an advance premium tax credit and cost-sharing reductions based on an annual income of \$21,791.03 for a one-person household in Erie County, New York.

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

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

You continue to be eligible to receive up to \$204.00 per month of advance premium tax credits (APTC), and if you enroll in a silver-level plan, cost-sharing reductions (CSR).

You are not eligible for Medicaid.

You will receive a further determination from the Marketplace on your ongoing eligibility for APTC and CSR.

### **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.

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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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The January 24, 2015 preliminary eligibility determination is **AFFIRMED**.

The case is **RETURNED** to the Marketplace to redetermine your eligibility for an advance premium tax credit (APTC) and cost-sharing reductions (CSR) based on an annual income of \$21,791.03 for a one-person household in Erie County, New York.

You continue to be eligible to receive up to \$204.00 per month of APTC, and if you enroll in a silver-level plan, CSR.

You are not eligible for Medicaid.

You will receive a further determination from the Marketplace on your ongoing eligibility for APTC and CSR.

## **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]