



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

## Notice of Decision

Decision Date: July 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001823

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On April 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 29, 2014 eligibility determination relating to your October 21, 2014 application, as well as a November 29, 2014 eligibility determination relating to your November 28, 2014 application.

The attached 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 Code of Federal Regulation (CFR) 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).

This page intentionally left blank.



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

## Decision

Decision Date: July 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001823

[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 \$203.00 per month, and eligible for cost-sharing reductions, effective December 1, 2014?

Did the Marketplace properly determine that you were not eligible for Medicaid, effective December 1, 2014?

Did the Marketplace properly determine that you were not eligible for retroactive Medicaid for September and October 2014?

Did the Marketplace properly determine that you were eligible to receive an advance premium tax credit of up to \$204.00 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 October 21, 2014, in which you attested to an annual household income of \$18,761.20. This application were filed before the open enrollment period for the 2015 tax year, therefore it was considered to be an application for insurance for 2014.

On November 29, 2014, the Marketplace issued a notice of eligibility determination based on your October 21, 2014 application. It stated you were eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$203.00 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 because your household income was over the allowable income limit for that program. This eligibility was effective December 1, 2014, and was based on the eligibility requirements for the 2014 tax year.

Shortly before this notice was issued, you modified your application on November 26, 2014, and attested to expected annual earnings of \$9,245.00. The Marketplace could not make a determination on your eligibility at that time, because the information you provided did not match the data obtained from state and federal data sources.

The Marketplace received your updated application for health insurance on November 28, 2014, in which you attested to an annual household income of \$20,700.04.

On November 29, 2014, the Marketplace issued a notice of eligibility determination based on your November 28, 2014 application. It stated you were eligible to enroll in a QHP; eligible to receive up to \$204.00 per month in APTC; and, if you selected a silver-level plan, eligible for CSR. The notice further stated that you were not eligible for Medicaid because your household income was over the allowable income limit for that program. This eligibility was effective January 1, 2015. This modification was made during the open enrollment period for 2015, therefore it was based, in part, on the eligibility requirements for the 2015 tax year.

On February 18, 2015, you spoke with the Marketplace's Account Review Unit to appeal the November 29, 2014 eligibility determinations insofar as you were found not eligible for Medicaid, and requested Medicaid coverage specifically for the months of September and October of 2014 to cover medical bills you incurred during those months.

On April 6, 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 the following additional evidence to corroborate your testimony: (1) your 2014 tax return, (2) a 2014 W-2 issued by [REDACTED], (3) a 2014 W-2 issued by [REDACTED] (4) earnings statements issued to you by [REDACTED] issued during November 2014, and (5) a 1098E form issued to you for 2014 reflecting the interest paid by you for your student loan interest payments. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

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).

On April 10, 2015, you provided the requested documents except for the 2014 W-2 issued to you by [REDACTED]. In addition to what was requested by the Hearing Officer, you also provided a 2014 W-2 issued to you by [REDACTED].

The record was subsequently closed.

## Findings of Fact

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

1. You testified, and your application indicates, that you are unmarried and live with your daughter.
2. You testified that you are seeking health insurance coverage only for yourself since your daughter's medical coverage is provided by her father.
3. Your October 21, 2014 application indicated that you expected to file your 2014 taxes with a tax filing status of "single" and would not be claiming any dependents, with annual expected income of \$18,761.20 based on earned income, after a \$79.00 deduction.
4. You testified that during 2014, your daughter's father claimed her as a dependent, but that you intend to claim her as a dependent for the 2015 tax year.
5. You live in Erie County, New York.
6. In your November 28, 2014 application, you attested to receiving income from two sources: (1) \$2,604.00 from [REDACTED] between January 1, 2014 and May 15, 2015, and (2) \$18,175.00 from [REDACTED] between August 18, 2014 and December 31, 2014. You further attested in this application that you anticipated claiming as a deduction a total of \$79.00 in student loan interest; your expected annual income was listed as \$20,700.04.
7. On November 13, 2014, you provided copies of earnings statements issued by [REDACTED] reflecting your receipt of (1) \$711.38 on September 5, 2014, (2) \$765.19 on September 19, 2014 (3) \$750.75 on October 3, 2014, (4) \$420.00 on October 17, 2014, and (5) \$847.88 on October 31, 2014.
8. On April 10, 2015, you provided a copy of your U.S. Individual Income Tax Return for 2014 in which your adjusted gross income was reflected as \$14,695.00. As part of your 2014 tax return, you also provided a Federal

Tax Return Summary that indicated your gross income during 2014 was \$15,719.00, which was derived from two sources: \$6,440.00 from [REDACTED] and \$9,279.00 from [REDACTED].

9. You testified that you are paid once every two weeks by [REDACTED].
10. On April 10, 2015, you provided copies of earnings statements issued by [REDACTED] reflecting your receipt of (1) \$658.82 on November 11, 2014 and (2) \$369.91 on November 26, 2014.
11. On April 10, 2015, you provided two 1098-E statements issued by U.S. Department of Education and [REDACTED] which reflected you paid \$163.40 and \$550.05 in student loan interest during 2014.
12. You testified that you were seeking Medicaid not only for the month of November 2014, but also for the months of September and October 2014, to cover medical expenses you incurred at that time.
13. Your account indicates that, to date, you have not enrolled in health insurance through the Marketplace.

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 taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for the 2014 tax year is set by Federal law at 2% to 9.5% of household income (26 USC § 36B(b)(3)(A)).

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 October 21, 2014 application, that was the 2013 FPL, which is \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5813 (2013)). On the date of your November 28, 2014 application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 150% but less than 200% of the 2013 FPL, the expected contribution is between 4.0% and 6.3% of the household income (§ 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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 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

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).

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 both of your applications under review, 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).

The Department of Health must make Medicaid eligibility effective no later than the third month before the month of application if the individual received medical services that would have been covered under Medicaid and would have been eligible for Medicaid at the time he received the services if he had applied at that time (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

## **Legal Analysis**

The first issue under appeal is whether the Marketplace properly determined, in response to your October 21, 2014 application, that you were eligible to receive up to \$203.00 per month in advance premium tax credit (APTC) and, if you enrolled in a silver level health plan, cost-sharing reductions (CSR).

In the application that was submitted on October 21, 2014, you attested to an expected yearly income of \$18,761.20, and the eligibility determination relied upon that information.

According to the record, you were the only person in your tax household, because in the application submitted on October 21, 2014, you stated that you expect to file a 2015 U.S. Income Tax return, file as single, and claim no dependents. You also testified to this.

You reside in Erie County, where the second lowest cost silver plan that is available through the Marketplace for an individual in 2014 cost \$275.35 per month.

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).



An annual household income of \$18,761.20 is 163.28% of the applicable federal poverty level (FPL) for a one-person household. At 163.28% of the FPL, the expected contribution to the cost of the health insurance premium is 4.61% of income, or \$72.04 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$275.35 per month) minus your expected contribution (\$72.04 per month), which equals \$203.31 per month. Rounding to the nearest dollar, you would be eligible for up to \$203.00 per month in APTC.

Therefore, the Marketplace correctly determined that you were eligible for up to \$203.00 per month in APTC for the remainder of 2014, had you enrolled in an insurance plan, in the first notice of eligibility determination issued on November 29, 2014.

By a similar analysis for 2015, an annual household income of \$20,700.04, is 177.38% of the 2014 FPL for a one-person household. At 177.38% of the FPL, the expected contribution to the cost of the health insurance premium is 5.29% of income, or \$91.25 per month.

The maximum amount of APTC that could be awarded based on your November 28, 2014 application equaled the cost of the second lowest cost silver plan in your county for 2015 (\$295.03 per month) minus your expected contribution (\$91.25 per month), which equaled \$203.78 per month. Therefore, rounding to the nearest dollar, you would be eligible for up to \$204.00 per month in APTC for 2015.

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

The next issue is whether the Marketplace properly determined, in response to your October 21, 2014 application, 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 and the applicable year. On the date of both of your applications, which were both made in 2014, the relevant FPL was \$11,670.00 for a one-person household.

Since \$18,761.20 is 160.76% 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 either of your applications.

Further, once you were properly found to be ineligible for Medicaid by each of the eligibility determinations, there was no basis to determine whether you might be eligible for retroactive Medicaid benefits in September and October of 2014, if you had applied for such benefits earlier.

Since the November 29, 2014 eligibility determinations properly stated that, based on the information you provided to the Marketplace, you were eligible for up to \$203.00 per month in APTC effective December 1, 2014, eligible for up to \$204.00 per month in APTC effective January 1, 2015, eligible for CSR, and ineligible for Medicaid, they were correct and are AFFIRMED.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on family size and current monthly household income, as well as by annual earnings, and the Marketplace made a determination based solely on your annual earnings. In order to be eligible for Medicaid at the time of your November 28, 2014 application, you would have to document that you earned less than 138% of the monthly Medicaid limit, that is, less than \$1,342.05.

It is noted that you testified that your current financial situation no longer reflects the information provided in the October 21, 2014 and November 28, 2014 applications.

First, you provided evidence that you paid a total of \$713.45 in student loan interest in 2014, or \$59.45 per month, not \$79.00 per month as you estimated.

You also attested that while you did not claim your daughter as a dependent for 2014, you intended to claim her as a dependent on your taxes for 2015. A different household size would lead to a different determination of your eligibility for financial assistance.

Finally, you have provided a copy of your 2014 tax returned, which showed an actual adjusted gross income of \$14,695.00 for 2014.

Therefore, your case is RETURNED to the Marketplace for a redetermination of your eligibility, as of November 28, 2014, based on an actual annual income for 2014 of \$14,695.00, for a two-person household in Erie County.

## **Decision**

The November 29, 2014 eligibility determinations are 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).

Your case is RETURNED to the Marketplace for a redetermination of your eligibility, as of November 28, 2014, based on an actual annual income for 2014 of \$14,695.00, for a two-person household in Erie County.

**Effective Date of this Decision:** July 28, 2015

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

You continue to be eligible to receive an advance premium tax credit of up to \$204.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions.

You are not currently eligible for Medicaid.

However, your case is RETURNED to the Marketplace for a redetermination of your eligibility, as of November 28, 2014, based on an actual annual income for 2014 of \$14,695.00, for a two-person household in Erie County.

You will receive a new determination on your eligibility for financial assistance from the Marketplace based on the developed record.

## **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 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 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 November 29, 2014 eligibility determinations are AFFIRMED.

Your case is RETURNED to the Marketplace for a redetermination of your eligibility, as of November 28, 2014, based on an actual annual income for 2014 of \$14,695.00, for a two-person household in Erie County.

You continue to be eligible to receive an advance premium tax credit of up to \$204.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions.

You are not currently eligible for Medicaid.

You will receive a new determination on your eligibility for financial assistance from the Marketplace based on the developed record.

## **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]