



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

## Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001861

[REDACTED]

Dear [REDACTED],

On March 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 6, 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

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001861

[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 \$325.00 per month and eligible for cost-sharing reductions effective March 1, 2015?

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

## Procedural History

The Marketplace received your application for health insurance on February 5, 2015, in which you attested to an annual household income of \$16,346.59.

On February 6, 2015, the Marketplace issued a notice of eligibility determination which stated that you were eligible to enroll in a qualified health plan (QHP); newly eligible to receive an advance premium tax credit (APTC) of up to \$325.00 per month; and, if you selected a silver-level plan, newly eligible for cost-sharing reductions (CSR). This eligibility was effective March 1, 2015. The notice also stated that you were not eligible for Medicaid because your household income was over the allowable limit for that program. This determination was based, in part, on an annual household income of \$16,346.59.

On February 23, 2015, you spoke with the Marketplace's Account Review Unit to appeal the February 6, 2015 eligibility determination insofar as you were found ineligible for Medicaid.

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On March 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 because the Hearing Officer directed you to provide additional evidence to corroborate your testimony, including all earning statements you received from your employer during the month of February 2015. 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 March 23, 2015, you provided to the Appeals Unit via facsimile copies of earnings statements with payment dates of February 25, 2015 and March 11, 2015.

The record was closed on April 4, 2015.

## **Findings of Fact**

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

- 1) You testified that you are divorced and live alone. You further testified that you have children, but they are grown and live in [REDACTED].
- 2) You testified that you are seeking health insurance coverage only for yourself under your Marketplace account.
- 3) You testified, and your application indicates, that you expect to file your 2015 taxes as "single" and claim no dependents.
- 4) You live in Kings County, New York.
- 5) In your February 5, 2015 application, you attested to an expected total income of \$16,346.59 during 2015.
- 6) You testified that you are paid once every two weeks by your employer, and that your income fluctuates based on the number of hours you work during any given pay period.
- 7) You testified that from October 2014, you have typically worked 32 hours per week at a rate of \$8.65 per hour.
- 8) On March 23, 2015, you provided earnings statements reflecting that you received (1) \$590.63 on February 25, 2015, and (2) \$568.75 on March 11, 2015.
- 9) You testified that the premium amounts for plans available through the Marketplace, even after applying the maximum tax credit of \$325.00

per month, are unaffordable to you due in part to your monthly living expenses.

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-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 133% but less than 150% of the 2014 FPL, the expected contribution is between 3.02% and 4.02% 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).

## **Legal Analysis**

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

In the application that was submitted on February 5, 2015, you attested to an expected yearly income of \$16,346.59, and 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 Kings County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$371.75 per month.

An annual household income of \$16,346.59 is 140.07% of the 2014 federal poverty level (FPL) for a one-person household. At 140.07% of the FPL, the expected contribution to the cost of the health insurance premium is 3.44% of income, or \$46.81 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$371.75 per month) minus your expected contribution (\$46.81 per month), which equals \$324.94 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly found you eligible for an APTC of up to \$325.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 140.07% of the 2014 FPL, you were correctly found to be eligible for cost-sharing reductions.

The second issue under review 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 \$11,770.00 for a one-person household. Since \$16,346.59 is 138.88% 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 February 6, 2015 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for an APTC up to \$325.00 per month, eligible for cost-sharing reductions, but ineligible 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 \$1,353.55 per month.

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The Hearing Officer requested that you provide all earnings statements issued to you by your employer during the month of your application, which was February 2015. The credible evidence of record reflects that you are paid by your employer once every two weeks, and would have received at least two earning statements during that month. Since you provided only one earning statement that was issued to you during the month of February 2015, we are unable to return your case to the Marketplace to redetermine your eligibility for Medicaid on a monthly basis.

## **Decision**

The February 6, 2015 eligibility determination is AFFIRMED.

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

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

You continue to be eligible to receive up to \$325.00 per month of APTC and, if you selected a silver-level plan, cost-sharing reductions.

You are not eligible for Medicaid.

## **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 February 6, 2015 eligibility determination is AFFIRMED.

You continue to be eligible to receive up to \$325.00 per month of advance premium tax credit and, if you selected a silver-level plan, cost-sharing reductions.

You are not eligible for Medicaid.

### **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:**

