



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

## Notice of Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001974

[REDACTED]

Dear [REDACTED]

On April 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 21, 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).

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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001974

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## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine, in the February 21, 2015 eligibility determination, that you were no longer eligible to receive financial assistance through the Marketplace?

Are you entitled to reimbursement for Medicare Part B premiums you paid in March 2015?

## Procedural History

On October 31, 2014, the Marketplace issued a notice stating that you had been determined eligible to receive reimbursement of your Medicaid Part B premium from New York State of Health, effective November 1, 2014.

On February 11, 2015, the Marketplace issued a notice advising you that it was time for you to renew your coverage through the Marketplace. The notice also stated that a decision could not be made on whether you qualified for financial assistance in paying for health insurance in 2015, based on the information obtained from federal and state sources. You were requested to update your account by March 15, 2015, or the financial assistance you were receiving might end.

On February 20, 2015, the Marketplace received your revised application.

On February 21, 2015, the Marketplace issued a notice of eligibility determination based on your February 20, 2015 application. It stated that you were not eligible for Medicaid, Child Health Plus, advance premium tax credits (APTC), or cost-sharing reductions (CSR). You were also found ineligible to enroll in a qualified health plan (QHP) at full cost-through the Marketplace. This determination was made because you were found to have been already enrolled in or eligible for a public insurance program such as Medicare.

On February 22, 2015, the Marketplace issued a disenrollment notice stating that “[y]our Medicaid Fee-For-Service coverage would be discontinued as of March 31, 2015.”

On March 6, 2015, you spoke with the Marketplace’s Account Review Unit and appealed (1) the February 21, 2015 determination insofar as you were found ineligible for Medicaid through the Marketplace and (2) the October 31, 2014 notice insofar as you were seeking a reimbursement of your Medicare Part B premium payment for the month of March 2015.

On March 23, 2015, you provided a letter stating that you wanted Medicaid through the Marketplace since the income limits for eligibility were lower through the Marketplace than they had been through the Local Department of Social Services (LDSS). You also provided a schedule of the monthly income limits for the eligibility of such a program through the LDSS.

On April 8, 2015, you had a telephone hearing with a Hearing Officer from the Appeals Unit of NY State of Health. 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 live alone and that your children are grown and no longer live in your household.
- 2) You testified that you do not anticipate filing taxes for 2015.
- 3) Your application states that your expected annual income is \$14,616.00, which is derived entirely from your Social Security Disability benefits.
- 4) You testified that the income on your application is correct.
- 5) Your application indicates that you turned 58 on May 10, 2015.

- 6) You live in Sullivan County, New York.
- 7) You testified that you are currently enrolled in Medicare Parts A, B and D.
- 8) You testified that you were found eligible for Medicare Parts A and B on August 1, 2014. You further testified that you became eligible on that date because you have been certified disabled through the Social Security Administration for at least 24 months.
- 9) You testified that Medicare provides limited coverage of some medical services that you may be receiving, and that you wished to be on Medicaid as well to absorb the portion of the expenses that Medicare does not cover.
- 10) You testified that you were seeking your Medicaid coverage through the Marketplace since the monthly income limits associated with the Medicaid plan are lower through the Local Department of Social Services through the Marketplace.
- 11) The Marketplace found you eligible for Medicare Part B premium reimbursement beginning on November 1, 2015.
- 12) You were disenrolled from your Medicaid Fee-For-Service effective March 31, 2015.
- 13) You testified that your Medicare Part B premium is \$104.90 per month, and that you have been reimbursed by Medicaid for those payments between November 2014 and February of 2015; however, you also stated that you have not been reimbursed by the Marketplace for the Medicare Part B premium payment made in March 2015, prior to your disenrollment from Medicaid Fee-For-Service.

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

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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)).

### 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

An individual is eligible for enrollment in Medicaid through the Marketplace (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

The first step in identifying whether an applicant is eligible for MAGI-based Medicaid through the Marketplace is to determine if he or she meets certain nonfinancial criteria. In general, to qualify for MAGI-based Medicaid through the Marketplace, you must either be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B
- A pregnant woman or infant
- A child aged 1-18
- A parent or caretaker relative

If you fall into one of these categories, the Marketplace must determine your eligibility for Medicaid using modified adjusted gross income (MAGI) rules (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If you do not fall into one of these categories you may be eligible for non-MAGI-based Medicaid coverage through your Local Department of Social Services or the Human Resources Administration (N.Y. Soc. Serv. Law § 366(1)(c)).

A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services (see NYS Social Services Law § 367a(b), 18 NYCRR § 360-7.5, GIS 02 MA/019). Cost-effectiveness may be determined by comparing what it would cost Medicaid to provide coverage to the cost of the premiums for the health insurance policy.

## Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, various government-sponsored plans provide minimum essential coverage, including the Medicare program under part A of title XVIII of the Social Security Act (26 USC § 5000A(f)(1)(A)(i), 42 USCS §§ 1395c et seq.).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were not eligible to receive financial assistance to help pay for the cost of health insurance coverage through the Marketplace.

To be eligible for an advance premium tax credit (APTC), a person must not be eligible for minimum essential coverage outside of the Marketplace. Minimum essential coverage includes most government-sponsored insurance plans including Medicare Part A. You testified that you were enrolled in Medicare Part A as of August 1, 2014 and that you would be receiving Medicare Parts B and D coverage as well. Therefore, you were not eligible for APTC.

Cost-sharing reductions are available to a person who is eligible to receive APTC and has an annual household income that does not exceed 250% of the federal poverty level (FPL). Since you are not eligible for APTC, you are also not eligible for cost-sharing reductions.

To be eligible for Medicaid through the Marketplace, a person cannot be entitled to or enrolled in Medicare Parts A or B. You testified that you were enrolled in Medicare Parts A and B as of August 1, 2014. Therefore, you are not eligible for Medicaid through the Marketplace.

The Marketplace does not have the authority to decide if you qualify for non-MAGI-based Medicaid. Since you may be eligible for Medicaid on a non-MAGI basis, the Marketplace will refer your case to your Local Department of Social Services (LDSS) for consideration.

Your LDSS will determine your eligibility for Medicaid on a non-MAGI basis.

For more information about non-MAGI eligibility requirements for Medicaid, you can contact the New York City Human Resources Administration. A listing of offices can be found at <http://www.nyc.gov/html/hra/html/home/home.shtm>.

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The final issue is whether you were entitled to reimbursement for Medicare Part B premiums you paid in March 2015.

A person who is eligible for Medicaid may be eligible for reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and therefore reduces the cost of providing Medicaid services.

The credible evidence of record reflects that you were eligible for Medicaid Fee-For-Service from August 1, 2014 to March 31, 2015. The Marketplace issued a notice finding you eligible for reimbursement of your Medicaid Part B premium beginning November 1, 2014. Since there is nothing in the record indicating that the Marketplace rescinded your Medicaid Part B premium prior to March 1, 2015, to the extent the reimbursement has not already been provided to you (and you remained in the program), you are eligible for a reimbursement of your Medicaid Part B premium for the month of March 2015.

## **Decision**

The February 21, 2015 eligibility determination is **AFFIRMED**.

To the extent the reimbursement has not already been provided to you (and you remained in the program), you are eligible for a reimbursement of your Medicaid Part B premium for the month of March 2015.

**Effective Date of this Decision:** August 25, 2015

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

You do not qualify for advance premium tax credits, cost-sharing reductions, or MAGI Medicaid through the Marketplace.

The Marketplace does not have the authority to decide if you qualify for non-MAGI 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

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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 February 20, 2015 eligibility determination is AFFIRMED.

To the extent the reimbursement has not already been provided to you (and you remained in the program), you are eligible for a reimbursement of your Medicaid Part B premium for the month of March 2015.

You do not qualify for advance premium tax credits, cost-sharing reductions, or MAGI Medicaid through the Marketplace.

The Marketplace does not have the authority to decide if you qualify for non-MAGI Medicaid.

### **Legal Authority**

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We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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**A Copy of this Decision Has Been Provided To:**

