



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

## Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002454

[REDACTED]

Dear [REDACTED],

On June 12, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 6, 2014 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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: AP000000002454

[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 not eligible for Medicaid as of December 6, 2014?

Did the Marketplace properly determine that you are eligible to receive an advanced premium tax credit of up to \$289.00 per month as of December 6, 2014?

## Procedural History

The Marketplace received your application for health insurance on December 5, 2014.

On December 6, 2014 the Marketplace issued an eligibility determination notice that you are eligible for up to \$289.00 per month in advance premium tax credits and cost-sharing reductions, if you select a silver-level qualified health plan. The notice also stated that you are not eligible for Medicaid because the household income you provided is over the allowable income limit.

On April 17, 2015 you spoke to the Marketplace Account Review Unit and appealed the amount of financial assistance you were determined eligible to receive.

On June 12, 2015 you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was held open until June 17, 2015 to allow you to submit additional documentation.

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On June 16, 2015 you faxed a fourteen-page document to the Marketplace Appeals Unit. The document was marked "Appellant Exhibit A" and was entered into the record.

## **Findings of Fact**

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

1. You are applying for health insurance through the Marketplace for yourself only.
2. You testified that you are currently employed as a personal care assistant.
3. You filed your 2014 federal income tax return with the tax status of single and will not claim any dependents on that return.
4. According to your December 5, 2014 Marketplace application, you attested that your 2015 expected income would be \$20,020.00, the same as last year.
5. You reside in Queens County, New York.
6. On June 16, 2015 you faxed your December 2014 through May 2015 earning statements to the Marketplace Appeals Unit. You received:
  - (a) \$308.00 in gross earnings on December 6, 2014 (Check #31288);
  - (b) \$308.00 in gross earnings on December 13, 2014 (Check #31668);
  - (c) \$385.00 in gross earnings on December 20, 2014 (Check #32068);
  - (d) \$308.00 in gross earnings on December 27, 2014 (Check #32354) (Appellant Exhibit A p. 13-14).

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

## **Applicable Law and Regulations**

### 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

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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).

#### Advance Premium Tax Credit:

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2014 federal poverty level; (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 qualified health plan; 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)).

## **Legal Analysis**

The first issue 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 \$11,670 for a one-person household. Since \$20,020.00 is 171.55% of the 2014 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

On June 16, 2015, you faxed your earnings statements from your employer for the period of December 2014 until May 2015. The earnings statements show that you received \$1,309.00 in December 2014.

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 \$1,343.00 per month. Since your December 2014 income of \$1,309.00 was at less than the \$1,343.00 income limit, you were incorrectly determined not eligible for Medicaid.

The second issue under review is whether the Marketplace correctly found that you were not eligible for APTC to help pay for the cost of health insurance.

To be eligible for APTC, a person must not be eligible for minimum essential coverage outside of the Marketplace. Minimum essential coverage includes Medicaid health insurance coverage through NY State of Health.

Since the December 6, 2014 eligibility determination improperly stated that you were eligible for an APTC of up to \$289.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is RESCINDED.

The case is RETURNED to the Marketplace to redetermine eligibility based on a household size of one and a December 2014 monthly income of \$1,309.00.

## **Decision**

The December 6, 2014 eligibility determination is RESCINDED.

The case is RETURNED to the Marketplace to redetermine your eligibility based on a household size of one and a December 2014 monthly income of \$1,309.00.

**Effective Date of this Decision:** September 3, 2015

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

This decision does not change your eligibility.

Your case is returned to the Marketplace to redetermine your eligibility based on the corrected household information you provided.

The Marketplace will redetermine your household's eligibility and issue a new eligibility determination notice.

## **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.

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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 December 6, 2014 eligibility determination is **RESCINDED**.

The case is **RETURNED** to the Marketplace to redetermine your eligibility based on a household size of one and a December 2014 monthly income of \$1,309.00. Your case is returned to the Marketplace to redetermine your eligibility based on the corrected household information you provided.

The Marketplace will redetermine your household's eligibility and issue a new eligibility determination notice.

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## **Legal Authority**

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

