



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

## Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003901

[REDACTED]

Dear [REDACTED]

On September 21, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 30, 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 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).

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## Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
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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 that you were eligible to receive up to \$259.00 per month in advance premium tax credits, effective August 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions, effective August 1, 2015?

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

## Procedural History

On June 27, 2015, the Marketplace received four earnings statements issued to you between May 29, 2015 and June 19, 2015.

On June 29, 2015, the Marketplace received your application for health insurance in which you attested to an expected yearly income of \$23,133.00.

On June 30, 2015 the Marketplace issued an eligibility determination notice, based on the information contained in the June 29, 2015 application, stating that you were eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$259.00 per month; eligible for cost-sharing reductions (CSR) provided you selected a silver-level plan; and ineligible for Medicaid. This eligibility determination was effective August 1, 2015.

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On July 1, 2015, the Marketplace received a letter issued by your employer, [REDACTED] stating that your pay rate is \$12.00 per hour and your hours would begin to decrease beginning June 1, 2015.

On July 15, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the June 30, 2015 eligibility determination insofar as you were found ineligible for Medicaid.

On September 21, 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, as additional evidence to corroborate your testimony, an earning statement issued to you by your employer on June 26, 2015 and all earning statements issued to you during the month of July 2015. However, upon further review, the Hearing Officer determined that all necessary evidence was already available to render a Decision.

Accordingly, the record was closed as of September 21, 2015.

## **Findings of Fact**

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

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of single, and will not be claiming any dependents on that return.
- 2) You testified that you are not married and that you have a daughter, though she is no longer living with you.
- 3) You are seeking insurance for only yourself.
- 4) The application that was submitted on June 29, 2015 listed annual household income of \$23,133.00, consisting of solely of income you expect to receive from your employer, [REDACTED], through the end of 2015.
- 5) You testified that you are paid weekly by [REDACTED].
- 6) You provided earnings statements to the Marketplace on June 27, 2015 showing that you received from [REDACTED]: (1) \$770.34 on May 29, 2015, (2) \$665.94 on June 5, 2015, (3) \$498.36 on June 12, 2015 and (4) \$473.64 on June 19, 2015.

- 7) On July 1, 2015, you provided a letter, dated June 18, 2015, issued by [REDACTED] to the Marketplace which stated that your pay rate was \$12.00 per hour and your total hours would begin to decrease beginning June 1, 2015.
- 8) Your application states that you will not be taking any deductions on your 2015 tax return.
- 9) You testified, and your application states, that you live in Suffolk County, New York.
- 10) You testified that you were seeking to be found eligible for Medicaid because the health plans available to you through the Marketplace are unaffordable due to the monthly premium and/or the applicable deductible.
- 11) You testified that you expected your regular hours to be reduced from 40 hours per week to between 38 and 30 hours per week. You also testified that you no longer expect to receive overtime going forward.

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 generally 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 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).

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).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$259.00 per month.

The application that was submitted on June 29, 2015 listed an annual household income of \$23,133.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file you 2015 income taxes as single and will not be claiming any dependents on that tax return.

You reside in Suffolk County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$379.93 per month.

An annual income of \$23,133.00 is 198.23% of the 2014 FPL for a one-person household. At 198.23% of the FPL, the expected contribution to the cost of the health insurance premium is 6.26% of income, or \$120.63 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for a primary subscriber and one dependent in your county (\$379.93 per month) minus your expected contribution (\$120.63 per month), which equals \$259.30 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$259.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$23,133.00 is 198.23% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

The third issue is whether the Marketplace properly determined that you were ineligible 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 \$23,133.00 for a one-person household. Since \$23,133.00 is 196.54% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an

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expected annual income basis, using the information provided in your application.

Since the June 30, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$259.00 per month in APTC, eligible for CSR, and 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.

You previously provided documentation to the Marketplace reflecting that you received \$1,637.94 during the month of your application, June 2015, even without having confirmed the amount you received from your employer on June 26, 2015.

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. Since your income was at least \$1,637.94 for June 2015, you did not qualify for Medicaid on the basis of monthly income when you submitted your June 29, 2015 application.

## **Decision**

The June 30, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** October 27, 2015

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

You remain eligible for up to \$259.00 per month of advance premium tax credits and, if you select a silver-level plan, eligible for 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

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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 June 30, 2015 eligibility determination is **AFFIRMED**.

You remain eligible for up to \$259.00 per month of advance premium tax credits and, if you select a silver-level plan, eligible for cost-sharing reductions.

You are not eligible for Medicaid.

### **Legal Authority**

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:**

