



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

## Notice of Decision

Notice Date: October 27, 2015  
NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003952

[REDACTED]

Dear [REDACTED]

On October 1, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 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 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

Notice Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003952

[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 up to \$10.00 per month in advance premium tax credit, effective September 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

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

## Procedural History

On July 20, 2015, the Marketplace received several applications for health insurance. That day, a preliminary eligibility determination was prepared with regard to the last application submitted on July 20, 2015, stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$10.00 per month, effective September 1, 2015, based on a household annual income of \$45,400.00. This preliminary determination did not refer to eligibility for either cost sharing reductions or Medicaid.

Also on July 20, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as you were not found eligible for an APTC greater than \$10.00 per month and that you were not found eligible for Medicaid.

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 July 21, 2015, the Marketplace issued an eligibility determination notice, stating that you were eligible to receive an APTC of up to \$10.00 per month; eligible for cost-sharing reduction (CSR) provided you selected a silver-level plan; and ineligible for Medicaid. This eligibility determination was effective September 1, 2015. You appealed this determination.

On October 1, 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 additional evidence to corroborate your testimony: (1) the last earning statement issued by [REDACTED] to you during either June or July 2015, (2) the Unemployment Insurance Benefit (UIB) Determination Letter issued to you on June 29, 2015, and (3) a copy of your online benefits payment history for UIB payments made during July 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 October 7, 2015, you provided all of the above-referenced documents to the Appeals Unit via facsimile.

Accordingly, the record was closed on October 7, 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 do not expect to claim any dependents on that tax return.
- 2) You are seeking insurance for only yourself.
- 3) The application that was submitted on July 20, 2015 listed annual household income of \$45,400.00, consisting of (1) \$35,520.00 you received from your prior employer, [REDACTED] between January 1, 2015 and June 19, 2015, and (2) \$380.00 weekly unemployment insurance benefit payments you expect to receive for the next 26 weeks.
- 4) You testified that your employment with [REDACTED] ended on June 19, 2015.
- 5) On October 7, 2015 you provided the Appeals Unit with a copy of your last earning statement issued to you by [REDACTED] on June 26, 2015, which indicated you received \$2,664.00 for that pay period and \$35,732.75 year-to-date.

- 6) You testified that after you were laid off from your position by [REDACTED] on June 19, 2015, you filed a claim for unemployment insurance benefits shortly thereafter.
- 7) On October 7, 2015, you provided a copy of your Unemployment Insurance Monetary Benefit Determination reflecting that you were entitled to receive \$420.00 per week, and that your "Claim Effective/Start Date" was June 29, 2015
- 8) On October 7, 2015, you provided a copy of your Official Record of Benefit Payment History. This documents reflects that after a waiting week, you received payments of \$420.00 on July 13, 2015, July 20, 2015 and July 27, 2015.
- 9) Your application states that you will not be taking any deductions on your 2015 tax return.
- 10) Your application states that you live in Kings County.

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 \$11,760.00 for a one-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution is 9.56% 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)).

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).

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 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 \$10.00 per month.

The application that was submitted on July 20, 2015 listed an annual household income of \$45,400.00, which was comprised of \$35,520.00 you received from your prior employer, [REDACTED] between January 1, 2015 and June 19, 2015, and (2) \$9,880.00 (\$380.00 X 26 weeks) in unemployment insurance benefit payments. 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 Kings County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$45,400.00 is 389.03% of the 2014 Federal Poverty Level (FPL) for a one-person household. At 389.03% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$361.67 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 an individual in your county (\$371.75 per month) minus your expected contribution (\$361.67 per month), which equals \$10.15 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$10.00 per month in APTC.

The second issue is whether you were properly found ineligible 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 \$45,400.00 is 389.03% of the applicable FPL, the Marketplace correctly found you to be ineligible 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 \$11,770.00 for a one-person household. Since \$45,400.00 is 385.73% 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 July 21, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$10.00 per month, ineligible 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. 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.

However, additional evidence provided on appeal indicates that the information contained on your application no longer reflects your current income situation.

At the request of the Hearing Officer, you provided documents credibly reflecting your last payment from [REDACTED] was received on June 26, 2015, immediately prior to you filing for your unemployment benefits, and that you received a total of \$1,260.00 in unemployment benefits during the July 2015.

Therefore, your case is returned to the Marketplace to redetermine eligibility for financial assistance based on a one-person household in Kings County, with a July 2015 income of \$1,260.00.

## **Decision**

The July 21, 2015 eligibility determination notice is **AFFIRMED**.

Your case is returned to the Marketplace to redetermine eligibility for financial assistance based on a one-person household in Kings County, with a July 2015 income of \$1,260.00.

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).



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

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

You remain eligible for an advance premium tax credit (APTC) of up to \$35.00 per month.

You are not eligible for cost-sharing reductions (CSR).

You will receive a new determination from the Marketplace regarding, among other things, your eligibility 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 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:

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).

NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The July 21, 2015 eligibility determination notice is AFFIRMED.

Your case is returned to the Marketplace to redetermine eligibility for financial assistance based on a one-person household in Kings County, with a July 2015 income of \$1,260.00.

You remain eligible for an advance premium tax credit (APTC) of up to \$35.00 per month.

You are not eligible for cost-sharing reductions (CSR).

You will receive a new determination from the Marketplace regarding, among other things, your eligibility for Medicaid.

## **Legal Authority**

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

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

