



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

## Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004307

[REDACTED]

Dear [REDACTED],

On November 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 11, 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

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004307



## Issues

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

Did the Marketplace properly determine that you were conditionally eligible to receive \$0.00 per month in advance premium tax credit, effective September 1, 2015?

Did the Marketplace properly determine that you were conditionally eligible for cost-sharing reductions?

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

## Procedural History

On August 10, 2015, the Marketplace received your application for health insurance.

On August 11, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the August 10, 2015 application, stating that you were conditionally eligible to receive an advance premium tax credit of \$0.00 per month and, if you selected a silver-level plan, for cost-sharing reductions, effective September 1, 2015. The notice further stated that you were not eligible for Medicaid because your household income of \$71,464.00 was over the allowable income limit.

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August 13, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that determination as it related to your eligibility for financial assistance.

On November 2, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence, including proof of income for your household.

On November 6, 2015, the Marketplace's Appeals Unit received your supporting evidence, which was uploaded to your Marketplace account, including: a copy of your U.S. Passport; a copy of your paystubs for the month of August 2015; a copy of your 2014 federal income tax return; and a copy of your spouse's paystubs for the month of August 2015. These documents were collectively marked as Appellant's Exhibit 1, and incorporated into the record.

On November 13, 2015, the Marketplace's Appeals Unit received your additional supporting evidence via facsimile, which included a written statement in support of your testimony. This document was marked as Appellant's Exhibit 2, and incorporated into the record. The record was closed on November 17, 2015.

## **Findings of Fact**

- 1) The record reflects that you are the only individual in your household seeking health insurance through the Marketplace.
- 2) You testified that you expected to file your 2015 federal income tax return with a tax filing status of married filing jointly.
- 3) The application that was submitted on August 10, 2015 indicated that you expect to claim your four children as dependents on your 2015 federal income tax return. At the hearing, you testified that you have six children who are currently living with you. You further testified that your eldest daughters, [REDACTED], reside at home, but are both in college. You testified that you expect to claim [REDACTED] as a dependent on your 2015 federal income tax return, in addition to your four children listed in your application.
- 4) According to the evidence provided, you claimed your six children as dependents on your 2014 federal income tax return, including your daughters [REDACTED] (Appellant's Exhibit 2, November 13, 2015).
- 5) The August 10, 2015 application listed annual household income of \$71,464.00, consisting of \$10,441.00 you earn from your employment and \$61,023.00 your spouse earns from her employment. You testified that

this amount was correct, as it was based on your 2014 federal income tax return.

- 6) You testified that your income fluctuates based on your performance. According to the evidence provided, you earned \$825.00 on August 11, 2015, and \$350.00 on August 31, 2015 (Appellant's Exhibit 1, November 6, 2015).
- 7) According to the evidence provided, your spouse earned \$2,502.74 on August 7, 2015, and \$2,502.74 on August 21, 2015, before taxes were deducted (Appellant's Exhibit 1, November 6, 2015).
- 8) Your application states that you will not be taking any deductions on your 2015 tax return.
- 9) Your application states that you live in Albany County, New York.

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 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 \$31,970.00 for a six-person household, and \$36,030.00 for a seven-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% 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 \$32,570.00 for a six-person household, and \$36,730.00 for a seven-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 conditionally eligible for an advance premium tax credit (APTC) of \$0.00 per month.

The application that was submitted on August 10, 2015 listed an annual household income of \$71,646.00 and the eligibility determination relied upon that information.

According to the same application, you were in a six-person household, which included your spouse and your four children. The application further indicated that you expected to file your 2015 federal income tax return as married filing jointly and claim your four children as dependents on that tax return.

You reside in Albany County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$331.49 per month.

An annual income of \$71,464.00 is 223.53% of the 2014 federal poverty level (FPL) for a six-person household. At 223.53% of the FPL, the expected contribution to the cost of the health insurance premium is 7.17% of income, or \$427.00 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 (\$331.49 per month) minus your expected contribution (\$427.00 per month). However, since your expected contribution is higher than the cost of the second lowest cost silver plan in your county, the amount of APTC that can be approved by the Marketplace must be \$0.00.

The second issue is whether you were properly found eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$71,464.00 is 223.53% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

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

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the applicable family size. On the date of your application, the relevant FPL was \$32,570.00 for a six-person household. Since \$71,464.00 is 219.42% 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.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You provided evidence that you earned \$825.00 on August 11, 2015, and \$350.00 on August 31, 2015. You further provided evidence that your spouse earned \$2,502.74 on August 7, 2015, and \$2,502.74 on August 21, 2015. Therefore, you had a household income of \$6,180.48 for the month of August 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 \$3,746.00 per month. Since your income was \$6,180.48 for the month of August 2015, you did not qualify for Medicaid on the basis of monthly income when you submitted your application.

Since the August 11, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$0.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

However, additional evidence provided on appeal indicates that the information contained in your August 10, 2015 application no longer reflects your anticipated tax household situation for 2015. You credibly testified, and provided a written statement, that you expect to claim 5 children on your 2015 federal income tax return, which includes your daughter [REDACTED]. This modified information indicates that you are in a seven person household for 2015.

Therefore, your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance based on a seven-person household in Albany County, with an annual expected income of \$71,464.00.

Furthermore, on November 6, 2015, a copy of your U.S. passport was uploaded to your Marketplace account. Therefore, your case is also RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.



## **Decision**

The August 11, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance based on a seven-person household in Albany County, with an annual expected income of \$71,464.00

Your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

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

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

This decision does not change your eligibility.

However, it does return your case to the Marketplace to redetermine your eligibility for financial assistance based on a seven-person household in Albany County, with an expected annual income of \$71,464.00.

Your case is also being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary.

### **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 August 11, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance based on a seven-person household in Albany County, with an annual expected income of \$71,464.00

Your case is RETURNED to the Marketplace to verify your documentation and redetermine your eligibility for health insurance.

This decision does not change your eligibility.

However, it does return your case to the Marketplace to redetermine your eligibility for financial assistance based on a seven-person household in Albany County, with an expected annual income of \$71,464.00.

Your case is also being sent back to the Marketplace to verify the citizenship documentation you submitted and redetermine your eligibility for health insurance, if necessary.

## **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:**

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