



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

## Notice of Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004380

[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 19, 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).

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

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004380



## Issues

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

Did the Marketplace properly determine that your son was eligible to receive up to \$61.00 per month in advance premium tax credit, effective October 1, 2015?

Did the Marketplace properly determine that your son was eligible for cost-sharing reductions?

Did the Marketplace properly determine that your son was not eligible for Medicaid?

## Procedural History

On August 18, 2015, the Marketplace ran your son's eligibility for health insurance. That day, a preliminary eligibility determination was prepared, stating that your son was eligible to receive an advance premium tax credit of up to \$61.00 and cost-sharing reductions.

Also on August 18, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your son's eligibility for financial assistance.

On August 19, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the application run on August 18, 2015, stating that your son was eligible to receive an advance premium tax credit of up

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).

to \$61.00 per month and, if he selected a silver level plan, for cost-sharing reductions, effective October 1, 2015. The notice further stated that your son was not eligible for Medicaid because his household income of \$25,000.00 was over the allowable income limit.

On November 2, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Interpretation services were provided by Spanish Interpreter Number [REDACTED]. 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 yourself and your spouse.

On November 4, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a copy of your 2014 joint federal income tax return. These documents were collectively marked as Appellant's Exhibit 1, and incorporated into the record. The record was closed on November 4, 2015.

## **Findings of Fact**

- 1) You testified that you are only appealing your son's eligibility determination.
- 2) The application that was run on August 18, 2015 indicated that you were divorced, and listed your tax filing status as Head of Household with a qualifying individual. At the hearing, you testified that you were married in 2014, and expect to file your 2015 federal income tax return with a tax filing status of married filing jointly. You will claim your son as a dependent on that tax return.
- 3) The application that was run on August 18, 2015 listed an annual household income of \$25,000.00, consisting of your earned income. You testified that this was no longer an accurate reflection of your expected income for 2015. You further testified that you expect to earn approximately \$28,000.00 for the 2015 tax year.
- 4) The application further lists your son's earned income of \$4,000.00, but it was not considered as part of your household income.
- 5) The record reflects that your son was 19 years old at the time the application was run on August 18, 2015.
- 6) The record does not reflect that your spouse was included as part of your household. You testified that your spouse expects to earn approximately \$35,000.00 for the 2015 tax year.

- 7) The evidence provided indicates that you filed your 2014 federal income tax return jointly with your spouse, and claimed your son as a dependent. The evidence further reflects that your adjusted gross income for 2014 was \$35,469.00 (Appellant's Exhibit 1, November 4, 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 Westchester 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

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).

requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 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 \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3137).

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 your son was eligible for an advance premium tax credit (APTC) of up to \$61.00 per month.

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).

The application that was run on August 18, 2015 listed an annual household income of \$25,000.00 for a two-person household, which included yourself and your son. The application further indicated that you expected to file your 2015 federal income tax return as Head of Household and claim one dependent on that tax return.

However, at the hearing, you testified, and provided evidence, that you have been married since 2014, and expect to file your 2015 federal income tax return as married filing jointly. You further testified that you still expect to claim your son as a dependent on that tax return. This modified information indicates that you are in a three-person household for 2015.

Additional evidence provided on appeal also indicates that the income information provided in the August 18, 2015 application was incorrect. You testified that you expect to earn approximately \$28,000.00, and your spouse expects to earn approximately \$35,000.00 for the 2015 tax year. Therefore, your expected annual household income for 2015 is approximately \$63,000.00.

As a result, the credible evidence of record indicates that on August 18, 2015, your son was in a three-person household, which included yourself, your spouse and your son, and your expected household income for 2015 is approximately \$63,000.00. Therefore, the August 19, 2015 notice of eligibility determination, and the August 18, 2015 preliminary determination on which it was based, are not supported by the record, and must be RESCINDED.

Your case is RETURNED to the Marketplace to add your spouse to your Marketplace account, and redetermine your son's eligibility for financial assistance based on a three-person household in Westchester County, New York, with an annual expected income of \$63,000.00.

## **Decision**

The August 18, 2015 preliminary determination and the August 19, 2015 notice of eligibility determination are RESCINDED.

Your case is RETURNED to the Marketplace to add your spouse to your Marketplace account and redetermine your son's eligibility for financial assistance based on a three-person household in Westchester County, New York, with an annual expected household income of \$63,000.00.

**Effective Date of this Decision:** December 10, 2015

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

This decision does not change your son's eligibility.

However, it does return your case to the Marketplace to add your spouse to your Marketplace account, and to redetermine your son's eligibility for financial assistance based on a three-person household in Westchester County, New York, with an expected annual household income of \$63,000.00 for the 2015 tax year.

## **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:

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

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).



- By fax: 1-855-900-5557

## **Summary**

The August 18, 2015 preliminary determination and the August 19, 2015 notice of eligibility determination are RESCINDED.

Your case is RETURNED to the Marketplace to add your spouse to your Marketplace account and redetermine your son's eligibility for financial assistance based on a three-person household in Westchester County, New York, with an annual expected household income of \$63,000.00.

This decision does not change your son's eligibility.

However, it does return your case to the Marketplace to add your spouse to your Marketplace account, and to redetermine your son's eligibility for financial assistance based on a three-person household in Westchester County, New York, with an expected annual household income of \$63,000.00 for the 2015 tax year.

## **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:**

