



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

## Notice of Decision

Decision Date: January 05, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004927

[REDACTED]

Dear [REDACTED],

On December 29, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 15, 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 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: AP000000004927



## 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 for financial assistance via advance premium tax credits and cost-sharing reductions, effective November 1, 2015?

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

## Procedural History

On October 14, 2015, the Marketplace received your updated application for health insurance for yourself. That day, the Marketplace prepared a preliminary eligibility determination and found you eligible to receive up to \$277.00 per month in advance premium tax credits (APTC) and, if you select a silver-level qualified health plan, eligible for cost-sharing reductions, effective November 1, 2015.

On October 15, 2015, the Marketplace issued a notice of eligibility determination that was consistent with the October 14, 2015 preliminary determination. The notice also stated that you were not eligible for Medicaid because the household income you reported of \$25,227.60 was over the maximum allowable income limit of \$21,984.00.

That same day, you spoke with the Marketplace's Account Review Unit and requested an appeal of the eligibility determination insofar as you were not eligible for Medicaid through the Marketplace.

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On December 29, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

- 1) According to your Marketplace account, you expected to file your 2015 taxes with a tax filing status of married filing jointly and will not be claiming any dependents on that return.
- 2) The application that was submitted on October 14, 2015 listed annual household income of \$25,277.60, consisting of \$2,102.30 per month that you receive in Social Security Disability benefits. You testified that this amount was correct.
- 3) Your application states that you live in New York County, New York.
- 4) You testified and the New York State Medicaid tracking system (EmedNY) confirmed that you have active Medicaid through New York City's Human Resources Administration, beginning September 1, 2015 through February 29, 2016.

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)).

### 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

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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)).

### Minimum Essential Coverage

Minimum essential coverage includes, but is not limited to, coverage under:

- Government sponsored programs, such as Medicare, Medicaid, CHIP, and TRICARE;
- Employer-sponsored plans; and
- Plans in the individual market

(26 USC §§ 36B(c)(2)(B) and 5000A(f); 45 CFR § 155.305(f)(1)(B)).

## **Legal Analysis**

The matter at issue is whether you the Marketplace properly determined that you were eligible for financial assistance, including advance premium tax credit (APTC), to help pay for the cost of your health insurance premiums, and not eligible for Medicaid.

According to your testimony and EmedNY, you have active Medicaid coverage through your New York City Human Resources Administration (HRA) as of September 1, 2015 through February 29, 2016.

As such, you have minimum essential coverage through a government-sponsored program outside of the individual market for purposes of APTC eligibility and Medicaid eligibility through New York State of Health's Marketplace. Therefore, the Marketplace improperly determined that you were eligible for APTC in the individual market.

Since you were not eligible for APTC, which is a prerequisite to be eligible for cost-sharing reductions, the Marketplace also improperly determined that you were eligible for cost-sharing reductions.

While the Marketplace determined you ineligible for Medicaid based on your household income of \$25,227.60, and household size of two people, which you put you at 158.37% of the applicable 2015 FPL (\$25,227.60/\$15,930.00) and over the 138% allowable income limit, its determination was not based on accurate grounds. Rather, you are ineligible for Medicaid because you have minimum essential coverage under Medicaid through HRA as of September 1, 2015 and during the time in which your eligibility was determined by the Marketplace on October 14, 2015.

For the foregoing reasons, the October 15, 2015 notice of eligibility determination was incorrect and is RESCINDED.

For more information about your eligibility for Medicaid outside the Marketplace, you can contact the New York City Human Resources Administration. A listing of offices can be found at [www.nyc.gov/html/hra/html/home/home.shtm](http://www.nyc.gov/html/hra/html/home/home.shtm).

## **Decision**

The October 15, 2015 notice of eligibility determination is RESCINDED.

**Effective Date of this Decision:** January 05, 2016

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

You are not eligible for financial assistance through New York State of Health's Marketplace because you have minimum essential coverage under Medicaid through New York City's HRA from September 1, 2015 to February 29, 2016.

For more information about your eligibility for Medicaid outside the Marketplace, you can contact the New York City Human Resources Administration. A listing of offices can be found at [www.nyc.gov/html/hra/html/home/home.shtm](http://www.nyc.gov/html/hra/html/home/home.shtm).

## **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.

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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 October 15, 2015 notice of eligibility determination is **RESCINDED**.

You are not eligible for financial assistance through New York State of Health's Marketplace because you have minimum essential coverage under Medicaid through New York City's HRA from September 1, 2015 to February 29, 2016.

For more information about your eligibility for Medicaid outside the Marketplace, you can contact the New York City Human Resources Administration. A listing of offices can be found at [www.nyc.gov/html/hra/html/home/home.shtm](http://www.nyc.gov/html/hra/html/home/home.shtm).

## **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:**

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