



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

## Notice of Decision

Decision Date: December 24, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000743

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On December 2, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 30, 2014 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).

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## Decision

Decision Date: December 24, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000743

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that, as of May 29, 2014, [REDACTED] was eligible for up to \$223.00 per month in advance premium tax credit and eligible for cost-sharing reductions?

## Procedural History

The Marketplace received your initial application for health insurance on March 12, 2014.

On May 29, 2014, you modified your application twice.

On May 30, 2014, the Marketplace issued an eligibility determination notice in your case. It stated that, with an attested household income of \$24,830.00, you were eligible to enroll in a qualified health plan through the Marketplace, receive up to \$223.00 per month in advance premium tax credit (APTC), and receive cost-sharing reductions (CSR). The notice also stated that you were not eligible for Medicaid because the household income you provided of \$24,830.00 was over the allowable income limit of \$16,105.00.

On July 10, 2014, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as it set your maximum APTC at \$223.00 per month.

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On December 2, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, translation services were provided by Spanish Interpreter, [REDACTED]. The record was developed during the hearing and was then closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You testified that there are seven people living in your house but you do not expect to claim anyone as a dependent for the 2014 tax year. You also testified that you do not expect to be claimed as dependent by anyone for the 2014 tax year.
- 2) You testified that you expect to file as Single for the 2014 tax year.
- 3) According to your May 29, 2014 application, and your supporting testimony taken at the December 2, 2014 hearing, you expect to earn a gross income of about \$24,830.00 during the 2014 tax year.
- 4) You currently reside in Nassau County.
- 5) You testified that you cannot afford an insurance premium on your current income after paying your other living expenses such as your mortgage, gas, utilities, and food.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

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 2013 federal 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 qualified health plan; 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 advance premium tax credit 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 the 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 is set by Federal law at 2% to 9.5% of annual household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 200% but less than 250% of the FPL of the benefit year for which coverage is requested, the expected contribution is between 6.30% and 8.05% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a), 45 CFR § 155.305(f)(1)(i)).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested" (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2013 FPL, which is \$11,490.00 for a one-person household (78 Fed. Reg. 5182, 5183).

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 plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

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 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 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a Qualified Health Plan. Such an exemption may be

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granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605 (a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for information and an application.

## **Legal Analysis**

The first issue is whether, when you filed your modified application for insurance coverage with financial support on May 29, 2014, you were eligible for an APTC of \$223.00 per month.

In the application that was submitted on May 29, 2014, you attested to an expected yearly income of \$24,830.00, and the eligibility determination relied upon that information.

According to the record, you expect to file your 2014 federal income tax return with the filing status of single and do not expect to claim any dependents. Therefore, you are in a one-person household.

You reside in Nassau County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$365.28 per month.

The May 30, 2014 eligibility determination was based on an attested annual household income of \$24,830.00. An annual household income of \$24,830.00 equals 216.10% of the 2013 Federal Poverty Level (FPL) for a one-person household. At 216.10% of the FPL, the expected contribution to the cost of the health insurance premium is 6.86% of your income, or \$141.95 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$365.28 per month) minus your expected contribution (\$141.95 per month), which equals \$223.33 per month. Therefore, the Marketplace correctly computed your APTC, to the nearest dollar, to be \$223.00 per month.

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Cost-sharing reductions (CSR) are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$24,830.00 is 216.10% of the 2013 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

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 that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,670.00 for a one-person household. Since \$24,830.00 is 212.77% of the 2014 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 May 30, 2014 determination properly stated that, based on the information you provided, you were eligible for APTC of up to 223.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

You testified that you may not be able to afford to pay your health insurance premium. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

## **Decision**

The May 30, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** December 24, 2014

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

You continue to be eligible to receive up to \$223.00 monthly of advance premium tax credit for the remainder of the 2014 calendar year.

This decision does not affect your eligibility for the 2015 calendar year or any eligibility determination issued after May 30, 2014.

## **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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

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 for assistance.

## **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 May 30, 2014 eligibility determination is **AFFIRMED**.

You remain eligible for up to \$223.00 in advance premium tax credit per month for the remainder of the 2014 calendar year.

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This decision does not affect your eligibility for the 2015 calendar year or any eligibility determination issued after May 30, 2014.

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)).

## **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:**

[REDACTED]  
[REDACTED]  
[REDACTED]