



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

## Notice of Decision

Decision Date: December 31, 2014

[REDACTED]  
Appeal Identification Number: AP000000000896

[REDACTED]  
[REDACTED]  
[REDACTED]  
Dear [REDACTED],

On September 30, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 27, 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

### 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: December 31, 2014

[REDACTED]  
Appeal Identification Number: AP000000000896

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly determine that as of August 26, 2014 you were eligible for an advance premium tax credit of \$0.00 per month and ineligible for cost-sharing reductions and Medicaid?

## Procedural History

The Marketplace initially received your application for health insurance on October 26, 2013.

On August 26, 2014, your application was modified to show an annual expected income of \$38,100.00. The Marketplace made a preliminary determination that you were temporarily eligible for \$0.00 in advance premium tax credit (APTC) and directed you to submit documentation of your income.

On August 26, 2014, you spoke with the Marketplace's Account Review unit and appealed that preliminary determination.

On August 27, 2014, an eligibility determination notice was issued. It stated that you were temporarily eligible to receive up to \$0.00 per month in APTC. You were not eligible for cost-sharing reductions or for Medicaid because your income was over the allowable limits for those programs. You were also asked to submit income documentation to the Marketplace.

On September 4, 2014, you uploaded September 3, 2014 correspondence from [REDACTED] with income information for the period from June 28

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to August 25. On September 19, 2014, you uploaded a paystub from [REDACTED] [REDACTED] for the pay period from August 30, 2014 through September 12, 2014.

On September 30, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was left open for 15 days to allow you the opportunity to submit additional evidence of your income.

On September 30, 2014 and on October 8, 2014, you uploaded documentation regarding the interest you paid on your student loans. The record is now closed.

## Findings of Fact

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

- 1) In your application you stated that you are single.
- 2) You testified that you plan on filing your 2014 federal income tax return as Single and will claim no dependents on that tax return.
- 3) Your expected annual income is listed in your August 26, 2014 application as \$38,100.00.
- 4) You testified and provided evidence that from January 2014 to June 2014 you worked full-time at the [REDACTED]. You received \$33,755.77 in income from that job during that time.
- 5) You testified that from July 2014 to August 2014 you worked at the [REDACTED] [REDACTED] and received \$3,000 in income from that employment.
- 6) September 3, 2014 correspondence from the [REDACTED] [REDACTED] states that you worked at the camp from June 28 to August 25 and were paid a salary of \$3,000.
- 7) An August 27, 2014 Officer of Employment from the [REDACTED] [REDACTED] appoints you to teach during the 2014 – 2015 school year, beginning on September 1, 2014, for a projected salary of \$4,820.00.
- 8) You testified you began working part time for the [REDACTED] [REDACTED] on September 2, 2014, will earn \$242.33 biweekly, and received your first paycheck on September 12, 2014.

- 9) The record contains a September 12, 2014 pay stub from [REDACTED] paying you \$242.33 for the fiscal year to date.
- 10) You testified that from September 2014 onward you will also be working part time at [REDACTED] and earning \$450.04 biweekly. You further testified that you received your first paycheck on September 12, 2014.
- 11) The record contains July 2, 2014 correspondence from the [REDACTED] saying that you have been appointed to teach for the [REDACTED] from September 1, 2014 until June 30, 2015 at a salary of \$11,701.
- 12) Your modified application on September 20, 2014 states that you plan to take \$4,400.00 in deductions on your 2014 income tax return. You testified that these deductions include charitable donations and educator expenses.
- 13) You testified that you plan to take a student loan interest deduction on your 2014 tax return. You provided evidence that you will pay in excess of \$2,500.00 in interest on your qualified student loans this year.
- 14) Your application states that you reside in Albany 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 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 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 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 household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 300% but less than 400% of the FPL, the expected contribution is 9.5% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

### Cost-Sharing Reductions

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive advanced premium tax credits, (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

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

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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 federal poverty 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).

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).

### Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that person can show that he 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 QHP (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)).

## **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 \$0.00 per month.

You testified that you plan on filing your 2014 federal income tax return as single and will claim no dependents on that tax return. Therefore, you are in a one-person household.

You reside in Albany County, where the second lowest cost silver plan that is available to an individual through the Marketplace costs \$294.14 per month.

You indicated on your August 26, 2014 application that your expected annual earnings for 2014 were \$38,100.00, and the eligibility determination relied upon that information. An annual household income of \$38,100.00 equals 331.59% of

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the 2013 federal poverty level (FPL) for a one-person household. At 331.59% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$301.63 per month.

Since your expected contribution of \$301.63 per month for the 2014 tax year exceeds the monthly premium for the second lowest cost silver plan in your county, you would be eligible for \$0.00 per month in APTC.

The next issue is whether or not the Marketplace correctly found you to be ineligible for cost-sharing reductions (CSR).

CSR is available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 331.59% of the FPL, you were correctly found to be ineligible for CSR.

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 even the estimated income listed on your application, \$38,100.00, is 331.59% 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 August 27, 2014 eligibility determination stated that you were eligible for APTC of up to \$0.00 per month, ineligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

You testified that you cannot afford to pay the monthly insurance premium even if you have an advance premium tax credit and cost-sharing reductions because your expenses exceed your income. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2014, you can check the Federal marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

These findings will have no effect on any Marketplace determination made after August 27, 2014.

## **Decision**

The August 27, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** December 31, 2014

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

The August 27, 2014 eligibility determination remains in effect. No subsequent determination is affected by this decision.

Please note that this decision only applies to your eligibility for advance premium tax credits for use in a qualified health plan for the year 2014. For insurance coverage starting January 1, 2015, you reapply to the Marketplace during the 2015 open enrollment period. Additional information on the open enrollment period is available at <https://nystateofhealth.ny.gov/>.

## **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 August 27, 2014 eligibility determination is AFFIRMED.

No subsequent decision is affected by this decision.

## **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]