



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

**Notice of Decision**

Decision Date: January 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001075

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On December 1, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s October 14, 2014 preliminary 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 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: January 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001075

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly determine that as of October 14, 2014, you were eligible for advance premium tax credit of up to \$151.00 per month and eligible for cost-sharing reductions?

## Procedural History

The Marketplace received your initial application for health insurance on December 18, 2013 and revised applications with additional information on various dates through October 14, 2014.

On October 14, 2014, the Marketplace made a preliminary eligibility determination that, based on an annual household income of \$35,772.83, you are eligible to receive up to \$151.00 per month in advance premium tax credit (APTC) and eligible for cost-sharing reductions, provided you are enrolled in a silver-level plan. It also directed you to submit documents to confirm that the information in your application was accurate.

On November 7, 2014, you spoke to the Marketplace's Account Review Unit and submitted an appeal request.

On December 1, 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 closed at the end of the hearing.

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).

## Findings of Fact

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

1. You testified that you are applying for health insurance through NY State of Health for yourself only.
2. You testified that you plan to file your 2014 federal income tax return with the tax status of Head of Household and claim one dependent on that return.
3. You currently live with your twenty-one-year-old daughter.
4. According to your October 14, 2014, Marketplace Application, your 2014 annual household income is \$35,772.83. Your expected yearly income was based on earned income of \$28,418.52 and \$704.00 in a student loan interest deduction. Your daughter's expected yearly income was based on earned income of \$8,058.31.
5. You testified that the October 14, 2014 determination does not accurately reflect your 2014 annual household income and that you want your eligibility for financial assistance to be reconsidered.
6. You testified that you had three employers in 2014.
7. You testified that you are currently employed at [REDACTED], [REDACTED] and expect to earn \$28,418.52 from this employer in 2014.
8. You testified that you were employed at the [REDACTED] [REDACTED] from October 2013 through May 2014 with a 2014 year-to-date income of \$3,465.00.
9. You testified that you were employed at [REDACTED] [REDACTED] in September 2014 with a year-to-date income of \$660.51.
10. You testified that your daughter had two employers in 2014.
11. You testified that your daughter is currently employed at [REDACTED] [REDACTED] and expects to earn \$3,700.00 from this employer in 2014.
12. You testified that your daughter was employed by [REDACTED] in January 2014 and from May 2014 through August 2014. She has a year-to-date income of \$4,929.72 from this employer.

13. You testified that your daughter received unemployment insurance benefits on March 9, 2014 through May 18, 2014 and also on September 7, 2014.

14. You testified that your daughter has received \$2,549.75 in unemployment insurance benefits in 2014.

15. You currently reside in Queens County, NY.

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 and (1) expects to have a household income between 138% and 400% of the 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), 435.911(b)(1), 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 annual household income (26 USC § 36B(b)(3)(A)).

For annual household income that is at least 200% but less than 250% of the 2013 FPL, 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)).

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 \$15,510.00 for a two-person household (78 Fed. Reg. 5182, 5183).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their income tax form). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

### Cost Sharing Reductions

Cost-sharing reductions are available to a person who (1) is eligible to enroll in a qualified health plan 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 qualified health plan (45 CFR § 155.305(g)(1)).

## **Legal Analysis**

At issue is whether the Marketplace properly determined that, as of October 14, 2014, you were eligible for advance premium tax credit (APTC) of up to \$151.00 per month and cost-sharing reductions.

In the application that was submitted on October 14, 2014, you attested to an expected yearly income of \$35,772.83, and the eligibility determination relied upon that information.

According to the record, you are the member of a two-person tax household. You expect to file as Head of Household on your 2014 federal income tax return and will claim one dependent on that return.

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$370.52 per month.

An annual household income of \$35,772.83 equals 230.64% of the 2013 federal poverty level (FPL) for a two-person household. At 230.64% of the FPL, the expected contribution to the cost of the health insurance premium is 7.37% of income, or \$219.78 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan available through the Marketplace for an individual

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).

in your county (\$370.52 per month) minus your expected contribution (\$219.78 per month), which equals \$150.74 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly computed your APTC to be \$151.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 230.64% of the 2013 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

Since the October 14, 2014 preliminary eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$151.00 per month and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

However, during your hearing you testified that the October 14, 2014 preliminary eligibility determination does not accurately reflect your 2014 expected annual household income.

You credibly testified that you have had three employers in 2014. Your first employer was the [REDACTED], from October 2013 through May 2014, with a year-to-date income of \$3,465.00. The second employer was [REDACTED] in September 2014 with year-to-date income of \$660.51. You are currently employed at [REDACTED] and expect to earn \$28,418.52 in 2014. You also expect to claim a \$704.00 student loan interest deduction on your 2014 federal income tax return.

You testified that your daughter had two employers in 2014. You testified that your daughter is currently employed at [REDACTED] and expects to earn approximately \$3,700.00 from this employer in 2014. You testified that your daughter was employed by [REDACTED] in January 2014 and May 2014 through August 2014. She has an expected year-to-date income of \$4,929.72 from this employer. Furthermore, you testified that your daughter has received unemployment insurance benefits on March 9, 2014 through May 18, 2014 and also on September 7, 2014. You testified that she has received \$2,549.75 in unemployment insurance benefits in 2014.

Your credible testimony supports a finding that your 2014 expected household income is \$43,019.50. Although the income you testified to at the hearing differs somewhat from the expected income you attested to in your October 14, 2014 application, any difference in tax credit that you are entitled to will be reconciled when you file your 2014 tax return.

You stated that although you were determined eligible for APTC by the Marketplace, you may have difficulty paying for your health insurance premiums because of your monthly expenses. 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 additional information and an application.

## **Decision**

The October 14, 2014 preliminary eligibility determination is AFFIRMED.

**Effective Date of this Decision:** January 27, 2015

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

This decision has no effect on any determination made in your case after October 14, 2014.

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 additional information and an application.

## **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 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).



## **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 14, 2014 preliminary eligibility determination is **AFFIRMED**.

This decision has no effect on any determination made in your case after October 14, 2014.

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 additional information and an application.

## **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]  
[REDACTED]