



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

## Notice of Decision

Decision Date: February 5, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001107

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

Dear [REDACTED],

On December 8, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 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 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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STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: February 4, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001107

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

## 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 to receive up to \$265.00 per month of advance premium tax credit and eligible to receive cost-sharing reductions as of November 18, 2014?

Did the Marketplace properly determine that you were ineligible for Medicaid as of November 18, 2014?

## Procedural History

The Marketplace received your revised application for health insurance on November 18, 2014.

That same day, the Marketplace made a preliminary determination that you were eligible for up to \$265.00 per month of advance premium tax credit and eligible for cost-sharing reductions.

On November 18, 2014, you spoke to the Marketplace's Account Review Unit and appealed the amount of your advance premium tax credit.

On November 27, 2014, the Marketplace issued a notice of eligibility determination on your November 18, 2014 application. It states that as of January 1, 2015, you are eligible for up to \$265.00 per month of advance premium tax credit and eligible for cost-sharing reductions, provided you are

enrolled in a silver level qualified health plan, but not eligible for Medicaid coverage.

On December 8, 2014, 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**

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

- 1) You are unmarried and have no children.
- 2) You testified that you expect to file a U.S. Income Tax return for 2015 as single and claim no dependents.
- 3) You are seeking health insurance through the Marketplace only for yourself.
- 4) You reside in Kings County, New York.
- 5) You testified that you are currently employed by [REDACTED] [REDACTED] and expect to earn approximately \$22,000.00 during 2015.
- 6) You testified that based upon your current level of income and monthly expenses, insurance through the Marketplace is unaffordable to you.

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)).

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The maximum amount of APTC that can be approved 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 for 2015 is set by federal law at 2.1% to 9.56% of annual 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 benefit year for which coverage is requested (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (78 Fed. Reg. 5182, 5183).

For annual household income in the range of at least 150% FPL but less than 200% FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3(g)(2)).

### 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 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 qualified health plan (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 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).

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).

### Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan QHP. Such an exemption may be 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)).

## **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 \$265.00 per month.

In your November 18, 2014 application and hearing testimony you attested to an expected yearly income in 2015 of \$22,000.00, and the eligibility determination relied upon that information.

According to the record you are the only person in your tax household.

You reside in Kings County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$371.75 per month.

An annual household income of \$22,000.00 equals 188.52% of the 2014 federal poverty level (FPL) for a one-person household. At 188.52% of the 2014 FPL, the expected contribution to the cost of the health insurance premium is 5.81% of income, or \$106.52 per month.

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The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$371.75 per month) minus your expected contribution (\$106.52 per month), which equals \$265.23 per month.

Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$265.00 per month.

Cost-sharing reductions are available to a person who has an annual expected household income no greater than 250% of the FPL. Since your annual household income is 188.52% of the 2014 FPL, the Marketplace correctly found you eligible for cost-sharing reductions.

The second issue is whether the Marketplace properly determined you to be ineligible for Medicaid.

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 FPL was \$11,670.00 for a one-person household. Since \$22,000.00 is 188.52% 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.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. To be eligible for Medicaid, you must meet the nonfinancial criteria and have an income no greater than 138% of the FPL, which is \$1,342.05 per month. Since your annual income of \$22,000.00 per year is equivalent to \$1,833.33 per month, and since there is no evidence that you earned less than this amount during November 2014, you also do not qualify for Medicaid on the basis of monthly income.

Since the November 27, 2014 eligibility determination properly states that, effective January 1, 2015, you are eligible for APTC of up to \$265.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

## **Decision**

The November 27, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** February 4, 2015

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

This decision does not change your eligibility.

You remain eligible for an advance premium tax credit of up to \$265.00 per month and, if you select a silver-level plan, cost-sharing reductions.

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 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 November 27, 2014 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You remain eligible for an advance premium tax credit of up to \$265.00 per month and, if you select a silver-level plan, cost-sharing reductions.

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]