



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

## Notice of Decision

Decision Date: March 4, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001116

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]. [REDACTED],

On December 15, 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 the 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 letter.

### 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

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001116

[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 November 22, 2014, you were not eligible for financial assistance because your income was over the allowable limit?

## Procedural History

On November 3, 2014, you submitted your initial application for health insurance through NY State of Health for yourself and your spouse. The Marketplace received revised applications with additional information on various dates through November 22, 2014.

On November 22, 2014, the Marketplace prepared a preliminary eligibility determination stated that based on an annual household income of \$65,120.00, you and your spouse were not eligible for financial assistance.

On November 26, 2014, you spoke with the Marketplace's Account Review Unit and appealed that determination.

On November 27, 2014, the Marketplace issued an eligibility determination notice stating that based on a household income of \$65,120.00, you and your spouse are eligible to purchase a qualified health plan at full cost through New York State of Health.

On December 15, 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.

## **Findings of Fact**

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

1. You applied for health insurance through NY State of Health Marketplace for yourself and your spouse, [REDACTED] (Testimony; 11/22/2014 Marketplace Application).
2. On November 22, 2014, the Marketplace prepared a preliminary eligibility determination stating that based on an annual household income of \$65,120.00, you and your spouse are not eligible for financial assistance.
3. You plan to file a 2015 federal income tax return (Testimony; 11/22/2014 Marketplace Application).
4. You plan to file your 2015 federal income tax return with the tax status of married filing jointly, with your spouse, and claim no dependents on that return (Testimony; 11/22/2014 Marketplace Application).
5. You are currently unemployed and not receiving unemployment insurance benefits (Testimony).
6. You expect to receive a \$3,000.00 monthly Individual Retirement Account (IRA) taxable distribution in 2015 (Testimony; 11/22/2014 Marketplace Application).
7. Your spouse expects to earn \$29,120.00 in earned income in 2015 (Testimony; 11/22/2014 Marketplace Application).
8. According to your Marketplace application, you reside in Ulster County, New York.

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

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).

An advance premium tax credit (APTC) is available to a tax filer who expects to (1) have a household income of at least 100% but not more than 400% of the Federal Poverty Level (FPL) and (2) claim a personal exemption deduction on his or her tax return for an applicant who is eligible to enroll in a qualified health plan and can obtain minimum essential coverage only through the individual Marketplace (45 CFR § 155.305(f); 26 CFR 1.36B-2).

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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

A tax filer’s household income includes the modified adjusted gross income (MAGI) of all the individuals in the taxpayer’s family who are required to file a federal tax return for the taxable year (26 CFR § 1-36B-1(e)(1)).

Under the Internal Revenue Code, “modified adjusted gross income’ means adjusted gross income increased by -- (i) any amount excluded from gross income under section 911 (which includes foreign earned income and the cost of housing for the individual), (ii) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and (iii) an amount equal to the portion of the taxpayer's social security benefits (as defined in section 86(d) which is not included in gross income under section 86 for the taxable year” (26 USC § 36B(d)(2)(B)).

A taxpayer’s adjusted gross income is gross income reduced by pre-tax (above-the-line) deductions. Gross income means all income from whatever source it is derived from, which includes but not limited to income derived from business, interest, rent, royalties, compensation for services, etc. (26 USC § 61).

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)).

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**

Your household size for advance premium tax credit (APTC) purposes is two because you expect to file your 2015 federal income tax return with the tax status of married filing jointly and claim no dependents on that return.

Based on your testimony and your November 22, 2014 Marketplace application, your expected 2014 household income is \$65,120.00. This amount included \$36,000.00 in taxable IRA distributions (\$3,000.00 once a month) and earned income of \$29,210.00 for your spouse.

Therefore, your MAGI-based income at the time of your application, as stated in your Marketplace account and as confirmed by your testimony, was \$65,120.00 which placed you at 413.99% of the Federal Poverty Level (FPL). The maximum income amount for APTC eligibility for a two-person household is \$62,920.00 (400.00% FPL).

Since your income exceeds the allowable maximum amount for this program, you were correctly found not to be eligible for APTC as of November 22, 2014.

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 November 27, 2014, eligibility determination is **AFFIRMED**.

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

## **How this Decision Affects Eligibility**

This Decision does not change your eligibility.

You remain eligible to enroll in a qualified health plan without financial assistance through New York State of Health.

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 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.

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).

You remain eligible to enroll in a qualified health plan without financial assistance through New York State of Health.

### **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]