



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

**Notice of Decision**

Decision Date: April 22, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001305

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

Dear [REDACTED],

On January 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 30, 2014 preliminary 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 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: April 22, 2015

NY State of Health Number: [REDACTED]  
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[REDACTED]  
[REDACTED] [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 for an advanced premium tax credit of up to \$0.00 per month effective February 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions effective February 1, 2015?

## Procedural History

On November 7, 2014, the Marketplace sent you a notice that you have been re-enrolled in your current health plan for 2015 through New York State of Health. The notice states that you are eligible for a tax credit up to \$0.00 per month, and eligible for cost-sharing reductions if you are enrolled in a silver level plan. The notice also finds that your elder son is no longer eligible for Medicaid but that that his Medicaid coverage will continue until April 30, 2015.

On November 18, December 29, and December 30, 2014, you modified your Marketplace account. According to the applications, you were then pregnant and you and your spouse had one son. You and your son were seeking insurance coverage.

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On December 30, 2014, the Marketplace made a preliminary determination that your son was eligible for Medicaid that you were eligible for an advance premium tax credit of up to \$0.00 monthly.

On that same day you spoke with the Marketplace's Account Review Unit and appealed that preliminary eligibility determination.

On December 31, 2014, the Marketplace issued an eligibility determination notice stating that, effective February 1, 2015, you were eligible for an advance premium tax credit of up to \$0.00 per month, ineligible for cost-sharing reductions, and ineligible for Medicaid. It also stated that your son remained eligible for Medicaid.

On January 23, 2015, 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 until January 28, 2015, because you were directed to provide additional documentation.

On January 26, 2015, you faxed your 1098-E, student loan interest statement. The faxed document was made part of the record as "Appellant's Exhibit A." The record was closed that same day.

## **Findings of Fact**

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

1. On December 30, 2014, you applied for health coverage through the Marketplace for yourself and your one-year-old child.
2. You testified that you plan on filing a 2015 federal income tax return jointly with your spouse and claim one dependent.
3. According to your December 30, 2014, Marketplace application, your 2015 annual household income is \$57,000.00.
4. You testified that your 2015 expected household income was approximately \$57,000.00.
5. You paid \$3,480.33 in interest on your student loan during 2014 (Form 1098-E). You testified that you expect to claim a similar student loan interest deduction on your 2015 federal income tax return.
6. According to your December 30, 2014, Marketplace application, you were then pregnant and expected to deliver a child during 2015.
7. You currently reside in Queens County, New York.

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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:

Eligibility for an advance premium tax credit (APTC) is based on the taxpayer's modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR 155.300(a)). "The term 'modified adjusted gross income' means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1-36B-1(e)(2)).

There shall be allowed as a deduction for the taxable year on an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan. The deduction allowed for the 2015 taxable year shall not exceed \$2,500.00 (26 USC § 221(a), (b)).

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 2014 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).

For annual household income in the range of at least 250% but less than 300% of the 2015 FPL, the expected contribution is between 8.10% and 9.56% of the household income (see 26 CFR § 1.36B-3T(g)(1), (IRS Rev. Proc. 2014-37)).

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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 \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

### Cost-Sharing Reductions:

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 percent 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)).

## **Legal Analysis**

According to the record, you were in a three-person tax household on December 2015. You expected to file your 2015 federal income tax return with the tax status of married filing jointly with your spouse and claim your son as a dependent.

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

A three-person household may qualify for an advance premium tax credit (APTC) if the annual household income is between \$27,311.00 (138% 2014 FPL) and \$79,160.00 (400% 2014 FPL).

The December 30, 2014, eligibility determination was based on an annual household income of \$57,000.00, which was the amount you entered as your total household’s expected annual income for 2015.

An annual household income of \$57,000.00 equals 288.02% of the 2014 FPL for a three-person household. At 288.02% of the FPL, the expected contribution to the cost of the health insurance premium is 9.21% of income, or \$437.48 per month.

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 (\$437.48 per month). Since your expected contribution exceeds the premium for the second lowest cost silver plan in your county, the Marketplace correctly computed your APTC to be \$0.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is

288.02% of the FPL, for purposes of APTC and cost-sharing reductions, you were correctly found not eligible for cost-sharing reductions.

However, on January 26, 2015, you submitted a 1098-E Form documenting that you paid \$3,840.33 in student loan interest to your lender in the 2014 tax year. You testified that you expect to claim a similar deduction for the 2015 tax year. Interest on student loans is an allowable deduction in calculating your modified adjusted gross income (MAGI).

Subtracting the maximum expected 2015 student loan interest deduction (\$2,500.00) from your expected 2015 gross income (\$57,000.00) results in an expected 2015 MAGI income of \$54,500.00.

An annual household income of \$54,500.00 equals 275.39% of the 2014 FPL for a three-person household. At 275.39% of the FPL, your expected contribution to the cost of the health insurance premium is 8.84% of income, or \$401.48 per month. Since your expected contribution exceeds the premium for the second lowest cost silver plan in your county, your APTC as of February 1, 2015 remains at \$0.00 per month.

Accordingly, the December 31, 2014 notice of eligibility determination is AFFIRMED.

## **Decision**

The December 31, 2014 notice of eligibility determination is AFFIRMED.

**Effective Date of this Decision:** April 22, 2015

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

This Decision does not change your eligibility.

Effective February 1, 2015, you were eligible for an advance premium tax credit of up to \$0.00 per month, not eligible for cost-sharing reductions, and not eligible for Medicaid. Your son remained eligible for Medicaid.

This decision does not affect any eligibility determination issued after December 31, 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.

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 December 31, 2014 notice of eligibility determination is **AFFIRMED**.

This Decision does not change your eligibility.

Effective February 1, 2015, you were eligible for an advance premium tax credit of up to \$0.00 per month, not eligible for cost-sharing reductions, and not eligible for Medicaid. Your son remained eligible for Medicaid.

This decision does not affect any eligibility determination issued after December 31, 2014.

## **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]  
[REDACTED]  
[REDACTED]