



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

## Notice of Decision

Decision Date: June 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001426

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 10, 2015 eligibility determination.

The attached 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 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: June 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001426

[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 [REDACTED] was eligible to receive an advance premium tax credit (APTC) of up to \$285.00 per month as of January 9, 2015?

Did the Marketplace properly determine that [REDACTED] was eligible to receive cost-sharing reductions (CSR) as of January 9, 2015?

Did the Marketplace properly determine that [REDACTED] was not eligible for Medicaid as of January 9, 2014?

## Procedural History

The Marketplace received two applications for health insurance on January 9, 2015, in which you attested to a range of expected yearly income from \$21,000.00 to \$21,500.00.

On January 10, 2015, the Marketplace issued a notice of eligibility determination based on your January 9, 2015 application that included an expected yearly income of \$21,000.00. It said that you were eligible to enroll in a qualified health plan (QHP), eligible to receive up to \$285.00 per month in advance premium tax credit (APTC); and, if you selected a silver-level plan, eligible to receive cost-sharing reductions (CSR). However, you were determined ineligible for Medicaid.

That same day, you spoke with the Marketplace's Account Review Unit to appeal the January 10, 2015 eligibility determination.

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On January 29, 2015, the Marketplace received several documents, including: (1) a single earnings statement issued to you by your employer, [REDACTED] on January 23, 2015; (2) your W-2 Wage and Tax Statement for 2014 issued to you by [REDACTED]; (3) a Lease Agreement extension executed by you and your landlord, [REDACTED], effective as of November 1, 2015; (4) an unsigned letter stating, among other things, that your rent was reduced by your landlord as a result of your financial hardship; (5) a table reflecting your monthly expenses.

On February 6, 2015, the Marketplace received several documents, including: (1) a signed letter from your mother stating, among other things, that you have been receiving financial assistance from her for the past few years along with multiple cancelled checks reflecting such assistance; (2) a document titled "Appeal Memorandum" in which you detail your difficulties in connection with your hardship, your exemption application for 2014, and your appeal for the 2015 plan year; and (3) a single earnings statement issued to you by your employer, [REDACTED] on January 30, 2015.

On February 9, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, at the request of the Hearing Officer, you provided three additional earnings statements issued by [REDACTED] reflecting income you received on January 2, 2015, January 9, 2015, and January 16, 2015. 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 testified, and your application indicates, that you are unmarried and have no children.
- 2) You testified that you are seeking health insurance coverage only for yourself.
- 3) You testified that you expect to file as "single" on your U.S. Income Tax return for the 2015 tax year and claim no dependents.
- 4) You testified that you live in Suffolk County, New York.
- 5) In your second January 9, 2015 application, you attested to an expected yearly income of approximately \$21,000.00. You testified that this was accurate at the time you submitted your application, but that your expected earnings for 2015 will likely be \$23,000.00, which is

roughly consistent with your W-2 Wage and Tax Statement issued by your employer, [REDACTED], for 2014. You further testified that you are compensated by [REDACTED] on a weekly basis, and your income fluctuates based on how much overtime you receive during that given week.

- 6) On January 29, 2015, you provided your W-2 Wage and Tax Earning Statement issued by your employer, [REDACTED], which stated you received \$23,904.12 in income during 2014.
- 7) You submitted five paystubs for weekly earnings you received in January 2015, the month your application for health insurance was filed; the checks were for \$550.00, \$570.64, \$587.10, \$500.00, and \$500.00.
- 8) You testified that you had previously requested a hardship exemption through the Marketplace in connection with your lack of coverage for the 2014 plan year. You further testified that based on the tax credit you are currently eligible for, and your current distressed financial situation, health 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**

### Modified Adjusted Gross Income

Marketplace eligibility is determined using modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a)). Generally, MAGI is your adjusted gross income plus any non-taxable social security income, non-taxable interest income and non-taxable foreign income that you receive (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62(a)). Living expenses, such as rent, utilities, and childcare are not allowable deductions in computing adjusted gross income.

### 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 applicable 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

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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 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 2.01% to 9.56% of 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 (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

### 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% 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 Medicaid State plan in accordance with subpart B of this part, and (5) have a

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household modified adjusted gross income (MAGI) 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 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 to receive up to \$285.00 per month in advance premium tax credit (APTC).

In the later application that was submitted on January 9, 2014, you attested to an expected yearly income of \$21,000.00. The Marketplace relied upon that information in issuing the eligibility determination. Your monthly expenses such as your rent, vehicle expenses, utilities, food, and credit card obligations are not allowable deductions in computing adjusted gross income.

According to the record, you are the only person in your tax household, because you expect to file a 2015 U.S. Income Tax return, file as single, and claim no dependents.

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You reside in Suffolk County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$379.93 per month.

An annual household income of \$21,000.00 is 179.95% of the 2014 federal poverty level (FPL) for a one-person household. At 179.95% of the FPL, the expected contribution to the cost of the health insurance premium is 5.41% of income, or \$94.68 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$379.93 per month) minus your expected contribution (\$94.68 per month), which equals \$285.25 per month. Therefore computing to the nearest dollar, the Marketplace correctly found you eligible for an APTC of up to \$285.00 per month

The second issue is whether the Marketplace properly determined that you are not eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 179.95% of the 2014 FPL, you were correctly found eligible for cost-sharing reductions.

The final issue is whether the Marketplace properly determined that you are not eligible 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 (MAGI) 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 \$21,000.00 is 179.95% 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 January 10, 2014 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for APTC up to \$285.00 per month, eligible for CSR, and not eligible for Medicaid, it is correct and is AFFIRMED.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,342.05 per month.

Since the credible evidence of record indicates your income was \$2,707.74 for January 2015, which you received through a total of five payments during that

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month from [REDACTED], you did not qualify for Medicaid on the basis of monthly income when you submitted your January 9, 2015 application.

You further testified that while you had provided the Marketplace with an expected yearly income figure of \$21,000.00 in your January 9, 2015 application, you now felt that your anticipated earnings would be more accurately estimated as \$23,000.00 during 2015, based on hourly wages and additional income you expect to receive through occasional overtime work. It is noted, however, that based on a revised application received by the Marketplace the day of the February 9, 2015 hearing, you were found preliminarily eligible for an APTC of up to \$225.00 per month and eligible for CSR, which is based on your expected yearly income of \$26,000.00 as you attested within that application. Accordingly, since the Marketplace has already revised your eligibility level based on your newly attested level of income, your case will not be returned for redetermination.

This Decision does not affect any subsequent determinations issued by the Marketplace after January 10, 2015.

You testified that you may not be able to afford to pay your health insurance premium and your husband's monthly Medicare contribution. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, you can consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for more information and an application.

## **Decision**

The January 10, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** June 8, 2015

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

The most recent eligibility determination issued by the Marketplace found that you were eligible to receive up to \$225.00 per month in advance premium tax credit, and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). This will not be affected by the January 10, 2015 determination having been affirmed.

You are not eligible for Medicaid.

This Decision has no effect on any subsequent determinations issued by the Marketplace after January 10, 2015.

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If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.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.

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

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## **Summary**

The January 10, 2015 eligibility determination is AFFIRMED.

You continue to be eligible to receive up to \$225.00 per month in advance premium tax credit (APTC) as determined in the most recent February 25, 2015 eligibility determination; and, if you select a silver-level plan, eligible for cost-sharing reductions (CSR).

You are not eligible for Medicaid.

This Decision does not affect any subsequent determinations issued by the Marketplace after January 10, 2015.

## **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]