



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

## Notice of Decision

Decision Date: June 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001448

[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 6, 2015 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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Appeal Identification Number: AP000000001448

[REDACTED]  
[REDACTED]  
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### Issue

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

Did the Marketplace properly determine that you were eligible for up to \$219.00 per month in advance premium tax credit and cost sharing reductions as of January 6, 2015?

### Procedural History

The Marketplace received your 2015 application for health insurance on January 5, 2015.

On January 6, 2015, the Marketplace issued an eligibility determination that you are eligible to receive an advance premium tax credit of up to \$219.00 per month and receive cost-sharing reductions.

On, or around, January 13, 2015, you spoke with the Marketplace’s Account Review Unit and appealed that determination insofar as it did not approve an advance premium tax credit of more than \$317.00 per month.

On February 9, 2015, 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:

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- 1) You testified that you are satisfied with your daughter's eligibility determination and only wish to appeal your own determination.
- 2) You testified, and the record reflects, that you expect to file your 2015 federal income tax as head of household and claim your daughter as a dependent.
- 3) According to your January 5, 2015 application, and your testimony, you expect to have a household income of \$30,463.21 for the 2015 tax year, before taxes are deducted.
- 4) You testified that you expect to claim a tuition deduction of approximately \$2,000.00 for the 2015 tax year.
- 5) The record reflects that you reside in Richmond County, New York.
- 6) You testified that you cannot afford a health insurance premium after paying all of your monthly expenses.

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). Living expenses, such as rent and utilities are not allowable deductions in computing adjusted gross income. Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; see also 26 USC § 62 (17)). However, the law that allowed for a deduction from adjusted gross income of up to \$4000 in tuition and fees paid by the taxpayer during the tax year to a qualified educational institution expired on December 31, 2013, and was renewed on December 19, 2014 through the Tax Increase Prevention Act of 2014 (26 USC § 222(e)). It amended the Internal Revenue Code of 1986 to extend certain expiring provisions, including the Above

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the Line Deduction for Qualified Tuition and Related Expenses. The Qualified Tuition and Related Expense Deduction was extended through December 31, 2014 but had not yet been renewed by Congress for the 2015 tax year at the time of your application (H.R. 5771 - 113th Congress (2013-2014), Public Law No. 113-295, Title I, Subtitle A, Section 107).

### 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 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).

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-3T(g)(1), 45 CFR § 155.300(a), 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 still the 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

### 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)).

### Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that person can show that he 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)).

### Catastrophic Plan Eligibility

Catastrophic coverage is a more affordable option for health insurance that meets all of the requirements of a qualified health plan, but with a lower monthly premium. Catastrophic plans are available to individuals under the age of 30 years old before the beginning of the year person, and those who apply for and receive a hardship exemption, regardless of age (45 CFR § 155.305(h)).

## Legal Analysis

The only issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$219.00 per month.

In the application that was submitted on January 5, 2015, you attested to an expected yearly income of \$30,463.21. The eligibility determination relied upon that information.

According to the record, there are two people in your tax household, you and your daughter, whom you expect to claim as a dependent.

You reside in Richmond County, where the second lowest cost silver plan available for 2015 for an individual through the Marketplace costs \$372.40 per month.

An annual income of \$30,463.21 is 193.66% of the 2014 federal poverty level (FPL) for a two-person household. At 193.66% of the FPL, the expected contribution to the cost of the health insurance premium is 6.05% of income, or \$153.48 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$372.40 per month) minus your expected contribution (\$153.48 per month), which equals \$218.92. Therefore, rounded to the nearest dollar, the Marketplace correctly computed your APTC to be \$219.00 per month based on an expected income of \$30,463.21.

Though you testified that you expect to claim a tuition deduction of approximately \$2,000.00 for the 2015 tax year, the Qualified Tuition and Related Expense Deduction was not extended past December 31, 2014 at the time of your application.

Therefore, the January 6, 2015 eligibility determination is **AFFIRMED**.

You testified that you cannot afford to pay the monthly insurance premium even if you have an APTC and cost-sharing reductions due to your other financial obligations. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can visit the Federal marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

You also qualify to purchase a catastrophic plan through the Marketplace, which may be a more affordable health insurance option.

## **Decision**

The January 6, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** June 10, 2015

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

You remain eligible to receive an advance premium tax credit of up to \$219.00 per month.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can visit the Federal marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

You also qualify to purchase a catastrophic plan through the Marketplace, which may be a more affordable health insurance option.

## **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.

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## **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:  
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- By fax: 1-855-900-5557

## **Summary**

The January 6, 2015 eligibility determination is AFFIRMED.

You remain eligible to receive an advance premium tax credit of up to \$219.00 per month.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can visit the Federal marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

You also qualify to purchase a catastrophic plan through the Marketplace, which may be a more affordable health insurance option.

## **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]