



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: AP000000001460

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

Dear [REDACTED],

On February 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 15, 2015 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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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001460

[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, your spouse, and your son were collectively eligible to receive up to \$975.00 per month in advance premium tax credit, as of January 15, 2015?

Did the Marketplace properly determine that you, your spouse, and your son were eligible for cost-sharing reductions if you enrolled in a silver level plan, as of January 15, 2015?

Did the Marketplace properly determine that you, your spouse, and your son were not eligible for Medicaid, as of January 15, 2015?

## Procedural History

On November 24, 2014, the Marketplace received your application for health insurance for 2015.

On January 14, 2015, your application was modified. That day, a preliminary eligibility determination was prepared that stated that you, your spouse, and your son were eligible for a shared advance premium tax credit up to \$975.00 per month and, if you enrolled in a silver level health plan, eligible for cost-sharing reductions.

Also on January 14, 2015, you spoke with the Marketplace's Account Review Unit and appealed that eligibility determination, insofar as your family was found eligible for up to \$975.00 per month in advance premium tax credit.

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On January 15, 2015, the Marketplace issued an eligibility determination notice that stated you, your spouse, and your son were eligible for a shared advance premium tax credit up to \$975.00 per month and, if you enrolled in a silver level health plan, eligible for cost-sharing reductions. That notice further stated that you, your spouse, and your son were not eligible for Medicaid because your household income was over the allowable income limit for that program.

On February 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you to submit evidence of your household's income as directed by the Hearing Officer. On February 18, 2015, the evidence was faxed to the Appeals Unit. The record is now closed.

## **Findings of Fact**

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

- 1) Your application requested health insurance coverage for three people, you, your spouse, and your son.
- 2) You testified that you are married.
- 3) You testified that you plan on filing your 2015 tax return as married filing jointly and that you will claim one child as a dependent on that income tax return.
- 4) At the time of the January 15, 2015 eligibility determination your application listed a household income of \$28,269.00. This amount included \$1,800.00 in earned income from you, and \$34,869.00 in income from your wife, [REDACTED]. The application also listed deductions in the amount of \$8,400.00 that your wife plans on taking.
- 5) You testified that the income amounts that were listed on your application at the time of the January 15, 2015 eligibility determination are accurate.
- 6) You testified that you expect to make \$1,800.00 in 2015 doing computer support. However, for the months of January and February you have made \$0.00 in income because you are still recovering from an accident.
- 7) You testified that your spouse expects to earn \$34,869.00 in 2015.
- 8) You testified that your spouse gets paid monthly. You provided your spouse's paystub for the month of January which lists a gross income of

\$3,003.00. You also provided your spouse's paystub for the month of February which lists a gross income of \$2,903.00.

- 9) You testified that you plan on taking the same deductions on your 2015 tax return that are listed in your application.
- 10) You testified that you reside in Queens County, New York.
- 11) You testified that you would like your eligibility redetermined for more financial assistance because your dependent child is in school, you support other family members, and you have other expenses.

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 (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 the 2015 tax year 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).

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In an analysis of APTC eligibility, the determination is based on the most recently published FPL for the benefits year for which coverage is requested, as of the first day of the annual open enrollment period for coverage in a QHP through the Exchange (45 CFR § 155.300(a), 45 CFR § 155.305(f)(1)(i)).

For annual household income in the range of at least 133% but less than 150% of the 2014 FPL, the expected contribution for the 2015 tax year is between 3.02% and 4.02% of the household income (see 26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37). On the date of your application, that was the 2014 FPL, which was \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their income tax form). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (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 first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 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 (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 \$19,790.00 for a three-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).

### Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income 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)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you, your spouse, and your son were collectively eligible for an advance premium tax credit (APTC) of up to \$975.00 per month.

In the application that was submitted on January 14, 2015, you attested to an expected yearly income of \$28,269.00, and the eligibility determination relied upon that information.

You confirmed that amount through your testimony on the income you and your wife expect to receive as well as the deductions you intend to take on your 2015 tax return. You also testified that you believe your other expenses, such as providing support for your other family members, should be taken into account when determining your eligibility for health insurance. Since the Internal Revenue Service rules do not allow these expenses to be deducted from the calculation of your adjusted gross income, they also cannot be deducted when the Marketplace computes your modified adjusted gross income (MAGI) for APTC purposes. Therefore, your household income will be assumed to be \$28,269.00, based on your application.

According to the record there are three people in your household: you, your spouse, and one child whom you intend to claim as a dependent on your tax return.

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You reside in Queens County, where the second lowest cost silver plan available for a couple and one dependent through the Marketplace costs \$1,059.49 per month.

An annual income of \$28,269.00 is 142.84% of the 2014 federal poverty level (FPL) for a three-person household. At 142.84% of the FPL, the expected contribution to the cost of the health insurance premium is 3.60% of income, or \$84.81 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 a couple and one dependent in your county (\$1,059.49 per month) minus your expected contribution (\$84.81 per month), which equals \$974.68 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$975.00 per month.

Cost-sharing reductions (CSR) are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$28,269.00 is 142.84% of the 2014 FPL, the Marketplace correctly found you to be eligible for CSR.

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 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 \$19,970.00 for a three-person household. Since \$28,269.00 is 142.84% of the 2015 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 15, 2015 eligibility determination properly stated that, based on the information you provided, you, your spouse, and your son were eligible for APTC of up to \$975.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, 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 \$2,276.00 per month. You testified that you will receive \$0.00 income for the months of January and February. You provided evidence that your wife will received \$3,003.00 in January and \$2,903.00 in February. Since both of these amounts are over the \$2,276.00 limit, you, your spouse, and your son do not qualify for Medicaid on the basis of monthly income.

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).



## **Decision**

The January 15, 2015 eligibility determination is AFFIRMED.

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

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

You, your spouse, and your son remain eligible for \$975.00 per month in advance premium tax credit (APTC).

You, your spouse, and your son remain eligible for cost-sharing reductions if you are enrolled in a silver level health plan.

## **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 January 15, 2015 eligibility determination is AFFIRMED.

You, your spouse, and your son remain eligible for \$975.00 per month in advance premium tax credit (APTC).

You, your spouse, and your son remain eligible for cost-sharing reductions if you enroll in a silver level health plan.

## **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]