



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

## Notice of Decision

Decision Date: June 12, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001504

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

Dear [REDACTED],

On February 19, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 13, 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).

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

## Decision

Decision Date: June 12, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001504

[REDACTED]  
[REDACTED] [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 you are eligible for \$567.00 monthly of Advance Premium Tax Credit (APTC) and, if you select a silver level qualified health plan (QHP), for cost-sharing reductions (CSR) as of January 12, 2015?

## Procedural History

On January 12, 2015, the Marketplace prepared a preliminary eligibility determination that you and your spouse are conditionally eligible to receive an advance premium tax credit (APTC) up to \$567.00 per month and, if you select a silver-level qualified health plan (QHP), for cost-sharing reductions (CSR) effective February 1, 2015.

On January 13, 2015, the Marketplace issued a notice of eligibility determination that was consistent with the January 12, 2015 preliminary eligibility determination. That notice stated that you and your spouse are not eligible for Medicaid because the household income you provided of \$32,364.00 is over the allowable income limit of \$21,707.00. It further informed you that additional documentation to verify your household's income was needed by April 14, 2015.

On January 20, 2015, you spoke with a representative in the Marketplace's Account Review Unit and appealed that eligibility determination.

The Marketplace sent you notice on January 28, 2015, that a telephone hearing was scheduled for February 19, 2015 at about 2:00 p.m.

On February 19, 2015, a Hearing Officer from the Marketplace's Appeals Unit contacted you by telephone and conducted the hearing. The record was developed and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You and your husband plan on filing your 2015 income tax return as married filing jointly and will not be claiming any dependents on that tax return.
- 2) You reside in ██████ County, New York.
- 3) According to your testimony and your Marketplace application, your household's expected adjusted gross income for 2015 is \$32,364.00.
- 4) You testified that you cannot afford health insurance coverage through the Marketplace, even with tax credits, because of your household's limited income and basic living 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 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 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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution in 2015 is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3T(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)).

### Affordability 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 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 only issue is whether the Marketplace properly determined that you and your spouse are eligible for an advance premium tax credit (APTC) of \$567.00 per month and cost-sharing reductions (CSR).

According to your Marketplace application and your testimony at hearing, you attested to an expected yearly household income of \$32,364.00, which is the amount the Marketplace relied upon in determining your eligibility for financial assistance in 2015.

According to the record, you have a two-person tax household, which consists of you and your spouse.

You reside in Kings County, where the second lowest cost silver plan available for a couple in 2015 through the Marketplace costs \$743.50 per month.

An annual income of \$32,364.00 is 205.75% of the 2014 federal poverty level (FPL) for a two-person household. At 205.75% of the FPL, the expected contribution to the cost of the health insurance premium is 6.54% of income, or \$176.38 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 in 2015 in your county (\$743.50 per month) minus your expected contribution (\$176.38 per month), which equals \$567.12 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined that you and your spouse are eligible for APTC of \$567.00 per month.

Cost-sharing reductions are available to individuals who have a household income no greater than 250% of the FPL. Since a household income of \$ 32,364.00 is 205.75 % of the 2014 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

You testified, however, that you cannot afford to pay the monthly insurance premium even with tax credits because it is not affordable on your household income and because of your basic living expenses. 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 check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction and an application.

## **Decision**

The January 13, 2015 eligibility determination, as made on January 12, 2015, is AFFIRMED.

**Effective Date of this Decision:** June 12, 2015

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

You and your spouse remain eligible to share an advance premium tax credit (APTC) up to \$567.00 per month and cost-sharing reductions (CSR).

## **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 13, 2015 eligibility determination, as made on January 12, 2015, is **AFFIRMED**.

You and your spouse remain eligible to share an advance premium tax credit (APTC) up to \$567.00 per month and cost-sharing reductions (CSR).

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 check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction and an application.

## **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]