



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

## Notice of Decision

Decision Date: July 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001517

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 18, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 27, 2014 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: AP000000001517

[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 were eligible to receive an advance premium tax credit of up to \$184.00 per month and eligible for cost-sharing reductions as of December 27, 2014?

## Procedural History

The Marketplace received your application for health insurance on December 26, 2014, in which you attested to an expected yearly income of \$25,400.00.

On December 27, 2014, the Marketplace issued a notice of eligibility determination based on your December 26, 2014 application. That notice stated that you were eligible to receive an advance premium tax credit (APTC) of up to \$184.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions (CSR). The notice further stated that you were not eligible for no-cost health insurance through Medicaid.

On January 20, 2015, you spoke with the Marketplace's Account Review Unit to appeal the December 27, 2014 eligibility determination insofar as you were found eligible for an APTC of up to \$184.00 per month.

On February 18, 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:

- 1) You testified that you expect to file your 2015 tax return as “single” and will not be claiming any dependents for the 2015 tax year.
- 2) You testified that you are seeking health insurance coverage through the Marketplace only for yourself.
- 3) You testified, and your December 27, 2014 application indicated, that you are currently employed by [REDACTED] and expect to earn approximately \$25,400.00 per year.
- 4) You testified that you may be seeking eligibility for intermittent FMLA leave during 2015 relating to medical issues you are experiencing, but you have not yet submitted the necessary paperwork to qualify for this program.
- 5) You testified that your eligibility should be based on your income after taxes have been deducted, not on your modified adjusted gross income.
- 6) You currently reside in Albany County, New York.

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)).

There is no provision in law or regulation that allows the Marketplace to determine your eligibility based on your income after taxes have been deducted.

### 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

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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-3(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 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (see 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)).

## Legal Analysis

At issue is whether the Marketplace properly determined that you were eligible to receive an advance premium tax credit (APTC) of up to \$184.00 per month and that you were eligible for cost-sharing reductions (CSR).

In the application that was submitted on December 26, 2014, you attested to an expected yearly income of \$25,400.00. The eligibility determination relied on that information.

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

You reside in Albany County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$331.49 per month.

An annual household income of \$25,400.00 is 217.65% of the 2014 federal poverty level (FPL) for a one-person household. At 217.65% of the FPL, the expected contribution to the cost of the health insurance premium is 6.96% of income, or \$147.35 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$331.49 per month) minus your expected contribution (\$147.35 per month), which equals \$184.14 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$184.00 per month

CSR is available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 217.65% of the 2014 FPL, you were correctly found to be not eligible for CSR.

## Decision

The December 27, 2014 eligibility determination is AFFIRMED.

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

## How this Decision Affects Your Eligibility

The decision does not change your eligibility. You continue to be eligible to receive an advance premium tax credit of up to \$184.00 per month beginning February 1, 2015.

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You are not eligible for cost sharing reductions.

Please note, however, that this Decision shall have no effect any determinations issued by the Marketplace after December 27, 2014.

Also note that you are encouraged to submit an additional application to the Marketplace should you experience a change in your anticipated earnings during 2015, including as a result of your anticipated intermittent FMLA leave, if approved.

### **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:

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- By fax: 1-855-900-5557

## **Summary**

The December 27, 2014 eligibility determination is AFFIRMED.

The decision does not change your eligibility. You continue to be eligible to receive an advance premium tax credit of up to \$184.00 per month beginning February 1, 2015.

You are not eligible for cost sharing reductions.

Please note, however, that this Decision shall have no effect any determinations issued by the Marketplace after December 27, 2014.

Also note that you are encouraged to submit an additional application to the Marketplace should you experience a change in your anticipated earnings during 2015, including as a result of your anticipated intermittent FMLA leave, if approved.

## **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]