



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

## Notice of Decision

Decision Date: July 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001703

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On March 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 6, 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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[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 were eligible to receive an advance premium tax credit of up to \$130.00 per month?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

Did the Marketplace properly determine that you were not eligible for Medicaid?

## Procedural History

The Marketplace received an application for health insurance on February 5, 2015.

That same day, the Marketplace prepared a preliminary eligibility determination based on your February 5, 2015 application. It stated that you were eligible to receive an advance premium tax credit (APTC) of up to \$130.00 per month and, if you enrolled in a silver level health plan, cost-sharing reductions (CSR). This preliminary determination was based, in part, on an annual household income of \$31,400.00.

Also on February 5, 2015, you spoke with the Marketplace's Account Review Unit to appeal the February 5, 2015 preliminary eligibility determination.

On February 6, 2015, a notice of eligibility determination was issued formalizing the findings under the February 5, 2015 preliminary eligibility determination. It

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stated that you were eligible to enroll in a qualified health plan (QHP); eligible to receive an APTC of up to \$130.00 per month; and, if you selected a silver-level plan, eligible for CSR. The notice further stated that you were not eligible for Medicaid because your income was over the allowable limit for that program. This determination was based on an annual household income of \$31,400.00.

On March 3, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) your 2014 tax return, (2) reasonably acceptable documents reflecting business income and expenses from business records during January and February of 2015, (3) your spouse's Social Security Administration (SSA) benefit award letter issued for 2015, (4) statements or screenshot reflecting Long Term Disability payments received by your spouse for the months of January and February of 2015. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

Between March 16, 2015 and March 18, 2015, you provided (1) you and your spouse's 2014 joint Federal and New York State tax return, (2) a summary of income and expenses related to your business, [REDACTED] between January 1, 2014 and December 31, 2014 (3) your spouse's Social Security Administration (SSA) benefit award letter issued for 2015 (4) several earnings statements issued to you during 2014 by [REDACTED] (5) one earning statement issued to you during 2015 by [REDACTED] and (6) copies of various medical bills issued to your spouse, to the Appeals Unit via facsimile.

You did not provide documents reflecting your business income and expenses from January and February of 2015 or reasonably acceptable documentation reflecting Long Term Disability payments received by your spouse for the months of Jan and Feb of 2015, the record was closed on March 18, 2015.

## **Findings of Fact**

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

- 1) You testified that you are married and have no children.
- 2) You testified, and your application indicates, that you expect to file your 2015 taxes as married filing jointly and will claim no dependents.
- 3) You testified that you are seeking health insurance coverage only for yourself through your Marketplace account.
- 4) You and your spouse live in Erie County, New York.

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- 5) In your application, you attested to earning \$211.00 per week from your business, [REDACTED]. However, you also attested in your application that your income during 2014 was \$8,400.00 and that you would be making the same amount during 2015.
- 6) You provided a summary reflecting the income and expenses of [REDACTED] from January 1, 2014 to December 31, 2014. In this summary you indicated that this business incurred a net loss of \$39,025.51.
- 7) In your application, you attested that your spouse received \$1,997.00 per month in SSA benefit. However, you testified during the hearing, and your spouse's SSA benefit award letter indicates that she actually receives \$2,137.00 per month during 2015.
- 8) In your application, you attested that you spouse also received \$114.00 per month in "Other income." You testified during the hearing that this income is received from a [REDACTED] long term disability policy she made a claim against when she had been working for [REDACTED].
- 9) In your application, you attested that your spouse expects to claim a deduction of \$5,400.00 relating to tuition and fees. You testified however, that this deduction was intended to be applied to your 2014 taxes, not 2015.
- 10) You testified that the health plans available to you through the Marketplace are unaffordable in large part due to your spouse's medical 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 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 first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 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 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).

### 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

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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 2015 FPL, which is \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

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).

## **Legal Analysis**

The first issue under appeal is whether the Marketplace properly determined that you are eligible to receive up to \$130.00 per month in advance premium tax credit (APTC).

In the application that was submitted on February 5, 2015, you attested to an expected yearly income of \$31,400.00, which was based on your anticipated earned income of \$8,400.00 from your business, [REDACTED], and that your spouse would be receiving \$1,997.00 per month in SSA benefits and \$114.00 per month in long term disability benefit, while also claiming a \$5,400.00 deduction relating to tuition and fees. The eligibility determination relied upon that information.

According to the record, you are in two-person tax household since you expect to file a 2015 U.S. Income Tax return, file jointly with your spouse and claim no dependents.

You reside in Erie County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$295.03 per month.

An annual household income of \$31,400.00 is 199.62% of the 2014 federal poverty level (FPL) for a two-person household. At 199.62% of the FPL, the expected contribution to the cost of the health insurance premium is 6.32% of income, or \$165.37 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$295.03 per month) minus your expected contribution (\$165.37 per month), which equals \$129.66 per month.

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Therefore, rounding to the nearest dollar, the Marketplace correctly found you eligible for APTC of up to \$130.00 per month.

The second issue under appeal is whether the Marketplace properly determined that you are 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 199.62% of the 2014 FPL, you were correctly found to be eligible for CSR.

The final issue under appeal 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 \$15,930.00 for a two-person household. Since \$31,400.00 is 197.11% 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 February 6, 2015 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for APTC up to \$130.00 per month, eligible for CSR and ineligible 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.

At the hearing, the Hearing Officer directed you to provide business records relating to your income and expenses during the months of January (which relates to your initial application) and February of 2015 and reasonably acceptable documentation indicating your spouse's Long Term Disability payments in order to determine your income during those months. While you provided business records reflecting your business's net losses during 2014, no evidence was provided reflecting your income and expenses during January and February 2015 as directed by the Hearing Officer. You also did not provide any documentation relating to your Long Term Disability payments received by your spouse for the months of January and February of 2015 as requested by the Hearing Officer. Therefore, there is insufficient evidence to return your case for redetermination for Medicaid on a monthly basis.



## **Decision**

The February 6, 2015 eligibility determination is AFFIRMED.

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

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

You continue to be eligible to receive up to \$130.00 per month of advance premium tax credit, and if you enroll in a silver-level plan, eligible for cost-sharing reductions.

You are not eligible for Medicaid.

## **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 February 6, 2015 eligibility determination is AFFIRMED.

You continue to be eligible to receive up to \$130.00 per month of advance premium tax credit, and if you enroll in a silver-level plan, eligible for cost-sharing reductions.

You are not eligible for Medicaid.

## **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]