



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

## Notice of Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001706

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]

On March 4, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 6, 2015 notice of 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: AP000000001706

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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 up to \$202.00 per month in advance premium tax credit and, if you select a silver-level qualified health plan, eligible for cost-sharing reductions as of February 5, 2015?

## Procedural History

The Marketplace received your initial 2015 application for health insurance on December 22, 2014, which you modified on February 5, 2015.

On February 5, 2015, the Marketplace prepared a preliminary eligibility redetermination that you are eligible to receive advance premium tax credits of up to \$202.00 per month and, if you select a silver-level qualified health plan, for cost-sharing reductions, effective March 1, 2015.

That, same day, you appealed the preliminary eligibility redetermination and requested that your eligibility be redetermined for an increase in advance premium tax credit or for Medicaid.

On February 6, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with its February 5, 2015 preliminary determination. That notice also stated that you are not eligible for Medicaid because the income you provided of \$37,125.21 is over the allowable income limit of \$27,311.00.

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On March 4, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was 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 Head of Household with Qualifying Individuals and plan on claiming your two children as dependents for the 2015 tax year.
- 2) You testified that you are currently employed and earn approximately \$28,805.21 per year before taxes are deducted and your daughter expects to earn \$8,320.00 per year before taxes are deducted.
- 3) Only you are seeking health insurance through the Marketplace.
- 4) You and your family currently reside in ██████ County, New York.
- 5) You testified that you cannot afford your monthly premium based on your current income and monthly living expenses, but might be able to afford a lesser amount.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Household Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

With regards to eligibility for financial assistance through the Marketplace, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

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A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(1)(A)). For the 2015 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Revenue Procedure 2014-61).

### 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 the 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 is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution is set by Federal law at 2.01% to 9.56% of annual household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 150% but less than 200% of the FPL, the expected contribution is between 4.02% and 6.34% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

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 \$19,790.00 for a three-person household (78 Fed. Reg. 5182, 5183).

## Cost-Sharing Reductions

Cost-sharing reductions 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)).

## 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 2015 FPL, which is \$20,090.00 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).

## 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 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 currently defers to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

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

## Legal Analysis

The matter currently at issue is the amount of the advance premium tax credit (APTC) to which you are eligible.

According to the record, your household consists of you and your two children. You expect to file as Head of Household with Qualifying Individuals on your 2015 tax return and expect to claim your two children as dependents for the 2015 tax year. Therefore, you have a three-person tax household for purposes of this analysis and, under the law, the income of all members in your household is counted.

You reside in ██████ County, where the second lowest cost silver plan for individual only coverage available through the Marketplace costs \$379.93 per month.

In your February 5, 2015 application, your expected income for 2015 was reported as \$37,125.21, which is 187.6% of the 2014 federal poverty level (FPL) for a three-person household. At 187.6% of the FPL, the expected contribution to the cost of the health insurance premium is 5.76% of your household income, or \$178.34 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$379.93 per month) minus your expected contribution (\$178.34 per month), which equals \$201.59 per month. Therefore, computed to the nearest dollar, the Marketplace correctly determined your APTC to be \$202.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income of \$37,125.21 is 187.6% of the 2014 FPL, the Marketplace correctly found that you were eligible for cost-sharing reductions.

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 that is at or below 138% of the FPL for the applicable family size. On the date of your updated application, the relevant FPL was \$20,090.00 for a three-person household. Since \$37,125.21.00 is 187.6% 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 notice of eligibility redetermination correctly found that you are eligible for up to \$202.00 per month of APTC and for cost-sharing reductions, but ineligible for Medicaid, it is correct and is AFFIRMED.

However, you testified that you cannot afford to pay your health insurance premium on your current income and your monthly 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, you can consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for more information and an application.

## **Decision**

The February 6, 2015 notice of eligibility redetermination is AFFIRMED.

**Effective Date of this Decision:** June 16, 2015

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

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$202.00 per month and cost-sharing reductions as of March 1, 2015.

## **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

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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 notice of eligibility redetermination is **AFFIRMED**.

This decision does not change your eligibility. You remain eligible for an advance premium tax credit of up to \$202.00 per month and cost-sharing reductions as of March 1, 2015.

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

## **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]