



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

## Notice of Decision

Decision Date: June 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001728

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On April 14, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 10, 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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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001728

[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 and your spouse were ineligible for advance premium tax credits and cost-sharing reductions as of February 10, 2015?

## Procedural History

The Marketplace received your initial 2015 financial assistance application for health insurance on December 9, 2014.

You modified your application on December 16, 2014 and February 9, 2015.

On February 9, 2015, the Marketplace prepared a preliminary eligibility redetermination that you and your husband were not eligible for financial assistance through the Marketplace.

That same day, you spoke to the Marketplace's Account Review Unit and appealed that preliminary determination insofar as you and your husband were not eligible for financial assistance.

On February 10, 2015, the Marketplace issued a notice detailing the preliminary eligibility determination that had been made on your February 9, 2015 updated application. That notice stated that you were eligible to enroll in a qualified health plan at

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full cost through the Marketplace. The notice further state that based on your household income of \$95,000.00 you and your husband do not qualify for Medicaid, Child Health Plus, or to receive tax credits because the income you provided is over the allowable income limits for these programs. It also stated that you are ineligible for cost-sharing reductions because you are not eligible for advance premium tax credits.

On April 14, 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 and your husband expect to file your 2015 tax return as Married Filing Jointly and you do not expect to claim anyone as a dependent for the 2015 tax year.
- 2) You testified that your husband is a union member and his work fluctuates in that he gets work as [REDACTED] when he is needed.
- 3) You testified he was last paid \$2,000.00 on April 2, 2015 for work he performed and currently is not working.
- 4) You testified that he just filed for unemployment insurance benefits of \$400.00 per week for the week of April 6, 2015.
- 5) You testified that his annual earnings will be between \$90,000.00 and \$95,000.00 this year.
- 6) You and your husband currently reside in [REDACTED] County, New York.
- 7) You testified that it is difficult for you to afford your monthly premiums without financial assistance based on your current income and essential living expenses because your income depends on when your husband has work.
- 8) You testified that you and your husband shared in advance premium tax credits last year because he only started working at his current job midway through the year.

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

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## 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 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 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 up to 400% of the FPL, the expected contribution is 9.56% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

## 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)).

## 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 \$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**

At issue is whether the Marketplace properly determined that you and your husband were eligible to purchase a qualified health plan at full cost and were not eligible for financial assistance such as advance premium tax credits and cost-sharing reductions.

In the application that was submitted on February 9, 2015, you attested to an expected yearly income of \$95,000.00, which you testified at the hearing is accurate. The eligibility determination relied upon that information.

According to the record, your tax household consists of you and your husband. Therefore, you are in a two-person tax household for purposes of this analysis.

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You reside in Suffolk County, where the second lowest cost silver plan available for a couple through the Marketplace costs \$759.86 per month.

An annual income of \$95,000.00 is 603.94% of the 2014 federal poverty level (FPL) for a two-person household. At 603.94% of the FPL, your household is over 400% of the FPL or \$62,920.00, which is the maximum amount allowable to be eligible for advance premium tax credits.

Similarly cost-sharing reductions are available to individuals who have a household income no greater than 250% of the FPL. Since a household income of \$95,000.00 is 603.94% of the 2014 FPL, the Marketplace correctly found you and your husband to be ineligible for cost-sharing reductions.

The same analysis applies to your household if your expected 2015 annual income is \$90,000.00 because it is 564.97% of the 2014 FPL for a two-person household.

However, you testified that your husband received \$2,000.00 in earnings on April 2, 2015, and may only receive unemployment benefits for the rest of April 2015 at \$400.00 per week, or \$1,600.00 month, if he does not get called into work.

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 \$1,832.00 per month. Since your husband's income could be \$3,600.00 for April 2015, you both do not qualify for Medicaid on the basis of monthly income.

Therefore, the Marketplace's determination that you are over-income for financial assistance via advance premium tax credits, cost-sharing reductions, and Medicaid was correct and is AFFIRMED.

## **Decision**

The February 10, 2015 eligibility redetermination, as made on February 9, 2015, is AFFIRMED.

This decision has no effect on any determination after February 10, 2015.

**Effective Date of this Decision:** June 18, 2015

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

This decision does not change your eligibility. You remain eligible to purchase a qualified health plan at full cost through the Marketplace as of February 10, 2015.

This decision has no effect on any determination after February 10, 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 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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Albany, NY 12211
- By fax: 1-855-900-5557

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## **Summary**

The February 10, 2015 eligibility redetermination, as made on February 9, 2015, is **AFFIRMED**.

This decision does not change your eligibility. You remain eligible to purchase a qualified health plan at full cost through the Marketplace as of February 10, 2015.

This decision has no effect on any determination after February 10, 2015.

## **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]