



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

## Notice of Decision

Decision Date: June 23, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001771

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

Dear [REDACTED],

On March 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 14, 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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## Decision

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[REDACTED]  
[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 for an advanced premium tax credit of up to \$237.00 per month and eligible to receive cost-sharing reductions as of February 14, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid as of February 14, 2015?

## Procedural History

On February 13, 2015, you applied for health insurance through the Marketplace. The Marketplace prepared a preliminary eligibility determination stating that you are eligible for up to \$237.00 monthly in advance premium tax credit and cost-sharing reductions.

On that same day you spoke to the Marketplace's Account Review Unit and appealed the amount of financial assistance you were determined eligible for.

On February 14, 2015, the Marketplace issued an eligibility determination notice consistent with the February 13, 2015 preliminary eligibility determination. The notice also states that you are not eligible for Medicaid.

On March 12, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was held open until March 20, 2015, in order for you to submit additional documentation.

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On March 18, 2015, you faxed additional documentation to the Marketplace Appeals Unit consisting of:

- (a) A statement regarding the documents you submitted (pg. 1).
- (b) A list of days you did not work January 2015 through March 2015, and a list of amounts paid by [REDACTED] and [REDACTED] [REDACTED] January 2015 through March 2015 (pg. 2).
- (c) Form 1098-E from [REDACTED] (pg. 3).
- (d) The first page of your 2013 U.S. Individual Income Tax Return Form 1040 (pg. 4).
- (e) 2013 Form W-2 Wage and Tax Statements for [REDACTED], [REDACTED] and [REDACTED] [REDACTED] (pg. 5).
- (f) 2014 Form W-2 Wage and Tax Statement for [REDACTED] [REDACTED] and [REDACTED] [REDACTED] and Cigna Health Insurance Card (pg. 6, 10).
- (g) Direct Deposit Statements from [REDACTED] [REDACTED] (pg. 7, 9)
- (h) Condensed Payroll Journal from [REDACTED] (pg. 8).
- (i) Monthly Rent Invoice from [REDACTED] (pg. 11).

The documents you submitted have been collectively marked as "Appellant's Exhibit A." The record is now complete and closed.

## Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself only (Testimony; 2/13/2015 Marketplace Application).
2. You plan to file a U.S. Income Tax return for 2015 with the tax status of single and claim no dependents on that tax return (Testimony; 2/13/2015 Marketplace Application).
3. According to your February 13, 2015 Marketplace application, you expect your 2015 annual household income to be \$25,000.00. You expect to receive \$30,000.00 in earned income and claim \$5,000.00 in business expense deductions.
4. You currently reside in [REDACTED] County, New York.

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5. You testified that based upon your current level of income and monthly expenses, insurance through the Marketplace is unaffordable to you.
6. You are currently employed at [REDACTED] and [REDACTED] (2/13/2015 Marketplace Application).
7. You received \$671.99 on 2/12/2015 and \$1041.36 on 2/23/2015 from [REDACTED] (Appellant's Exhibit A pg. 2).
8. You received, \$179.59 on 2/5/2015; \$137.50 on 2/11/2015; \$770.70 on 2/19/2015, and \$1,118.25 on 2/26/2015 in income from [REDACTED] (Appellant's Exhibit A).
9. You testified that due to the nature of your employment, your income fluctuates. Therefore, you are not able to accurately predict your 2015 annual household income.
10. According to your 2013 U.S. Individual Income Tax Return Form 1040, your adjusted gross income in 2013 was \$34,414.00 (Appellant's Exhibit A pg. 4).
11. According to your 2014 Form 1098-E from [REDACTED], you paid \$1,432.78 in student interest in 2014 (Appellant Exhibit A pg. 3).

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 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 qualified health plan (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).

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-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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

#### 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)).

#### Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan 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

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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)).

### 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 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 \$11,770.00 for a one-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**

According to the record, you have a one-person tax household. You expect to file your 2015 federal income tax return with the tax status of single and claim no dependents on that return.

You reside in Suffolk County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$379.93 per month.

A one-person household may qualify for an advance premium tax credit (APTC) if the annual household income is between \$16,105.00 (138% 2014 FPL) and \$46,680.00 (400% 2014 FPL).

The February 14, 2015, eligibility determination was based on an annual household income of \$25,000.00, which was the amount you attested to as your total household's expected annual income for 2015.

An annual household income of \$25,000.00 equals 214.22% of the 2014 federal poverty level (FPL) for a one-person household. At 214.22% of the FPL, the expected contribution to the cost of the health insurance premium is 6.84% of income, or \$142.50 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 (\$142.50 per month), which equals \$237.43 per month. Therefore, the Marketplace correctly computed your APTC to be \$237.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 214.22% of the FPL for calculating eligibility for cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

However, you testified that due to the nature of your employment, your income fluctuates. Therefore, \$25,000.00 may not accurately reflect your 2015 annual household income.

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 application, the FPL was \$11,770.00 for a one-person household. Since \$25,000.00 is 212.40% of the 2015 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. To be eligible for Medicaid, you must meet the nonfinancial criteria and have an income no greater than 138% of the FPL. In order to be eligible for Medicaid a household of one must not exceed a monthly income limit of \$1,354.00.

On March 18, 2015, you faxed several documents to the Marketplace Appeals Unit. Included in the documents was a list of amounts paid by your employers in February 2015. Based on this documentation, you received \$1,713.35 from [REDACTED] and \$2,206.04 from [REDACTED] in February 2015. Since the amount you received in February 2015 exceeded \$1,354.00, you were not eligible for Medicaid.

At this time you have not provided sufficient testimony or documents to return your case to Marketplace to recalculate you benefits on a yearly or monthly basis.

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At the end of the year, the amount of income you reported to the Marketplace and your actual income for 2015 will be reconciled. If you received less tax credit than your maximum entitlement, based on income, you may receive an income tax refund. If you received more tax credit than your maximum entitlement, based on your income, you will owe the excess as an additional income tax liability.

Since the February 14, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$273.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and AFFIRMED.

## **Decision**

The February 14, 2015, eligibility determination is AFFIRMED.

**Effective Date of this Decision:** June 23, 2015

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

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$237.00 per month and eligible for cost-sharing reductions as of February 14, 2015.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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

## **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

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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 14, 2015, eligibility determination is **AFFIRMED**.

You remain eligible to receive an advance premium tax credit of up to \$237.00 per month and eligible for cost-sharing reductions as of February 14, 2015.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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

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## **Legal Authority**

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

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