



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

## Notice of Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002009

[REDACTED]

Dear [REDACTED]

On April 14, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 6, 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 Code of Federal Regulation (CFR) 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).

This page intentionally left blank.



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

## Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002009

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you and your wife were eligible for up to \$409.95 per month in advance premium tax credits, and ineligible for cost-sharing reductions and Medicaid, effective January 1, 2015?

## Procedural History

You last updated your account on March 25, 2014. At that time, you attested to annual expected earnings of \$27,768.00.

On November 6, 2014, the Marketplace issued a notice stating that it was time to renew your coverage for 2015. The notice stated that, according to federal and state data sources, for 2015 you and your wife qualified for an advance premium tax credit (APTC) of up to \$409.95 per month. You and your wife were not eligible for cost-sharing reductions or Medicaid because the data sources showed that your income was over the allowable limits for those programs. Finally, the notice stated that if the information in the notice was incorrect, you should update your account by December 15, 2014 in order for any changes to be in effect by January 1, 2015.

Your account was not updated before the end of 2014.

On December 9, 2014, the Marketplace sent you a notice confirming your enrollment in a qualified health plan (QHP), and noting your premium responsibility of \$355.18.

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).

On December 26, 2014, the Marketplace issued a notice, stating that your coverage would be ending on December 31, 2014, but that you would be enrolled in the same plan for 2015.

On March 8, 2015, the Marketplace sent you another notice confirming your enrollment in your QHP, and noting your premium responsibility of \$355.18.

On March 11, 2015, you spoke with the Marketplace's Account Review Unit and appealed the Marketplace's November 6, 2014 eligibility determination insofar as you were found eligible for APTC, and not Medicaid.

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 the record was left open for 15 days so that you could submit copies of you and your wife's paystubs. On April 20, 2015, the Appeals Unit received a fax containing the paystubs as well as a copy of your 2014 tax return. The record is now closed.

## **Findings of Fact**

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

- 1) According to your account, you elected to receive notices from the Marketplace by U.S. Mail, and there is no indication that any notices were returned to the Marketplace as undeliverable.
- 2) You testified that you plan on filing your 2015 tax return with your spouse, with a tax filing status of married filing jointly, and that you will claim no dependents on that tax return.
- 3) You testified that in 2015 you expect to make between \$10,000.00 and \$12,000.00 through your job. You further expect to make an additional \$10,000.00 through independent contracting.
- 4) You faxed in copies of your paystubs to the Appeals Unit that show on March 4, 2015 you received \$654.50 in gross pay, on March 18, 2015 you received \$586.50 in gross pay, on April 1, 2015 you received \$353.75 in gross pay, and on April 5, 2015 you received \$352.75 in gross pay.
- 5) You testified that in March you received \$2,000.00 from your independent contracting job but you did not have paystubs for that job.
- 6) You testified that in 2015 your wife expects to make between \$12,000.00 and \$15,000.00 from her job.

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).

- 7) You faxed in copies of your wife's paystubs to the Appeals Unit that show on March 5, 2015 she received \$390.00 in gross pay, on March 12, 2015 she received \$408.00 in gross pay, March 19, 2015 she received \$393.00 in gross pay, on March 26, 2015 she received \$393.00 in gross pay, and on April 2, 2015 she received \$378.00 in gross pay.
- 8) You testified that you and your wife intend to take a tuition and fees deduction on your tax return. You further testified that it will be similar to the amount on your 2014 income tax return.
- 9) You faxed a copy of your 2014 income tax return to the Appeals Unit. Line 34 of the tax return lists a tuition and fees deduction in the amount of \$4,000.00.
- 10) You testified that you and your wife reside in Kings County.
- 11) You testified that without more financial assistance, you cannot purchase a health plan because it is unaffordable.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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).

## Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). The law that allowed for a deduction from adjusted gross income of up to \$4000.00 in tuition and fees paid by the taxpayer during the tax year to a qualified educational institution expired as of December 31, 2014, but it has been restored by Congress since the time of your application (26 USC § 222(e)).

## Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or 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 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)).

## **Legal Analysis**

The issue is whether the Marketplace properly determined that you and your wife were eligible for up to \$409.95 per month in APTC, and ineligible for cost-sharing reductions and Medicaid, effective January 1, 2015.

The Marketplace must redetermine a qualified individual’s eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the individual’s eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

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).

On November 6, 2014, the Marketplace issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, for 2015 you and your wife qualified for an advance premium tax credit (APTC) of up to \$409.95 per month. You and your wife were not eligible for cost-sharing reductions or Medicaid because the data sources showed that your income was over the allowable limits for those programs. Finally, the notice stated that if the information in the notice was incorrect, you should update your account by December 15, 2014 in order for any changes to be in effect by January 1, 2015.

The record indicates that the notices were issued to the address you have listed on your Marketplace account, and there is no indication that any of the notices were returned to the Marketplace as undeliverable.

The record shows that your application has not been updated since March 2014, and there is no indication that you called to object to the findings in that decision prior to the end of 2014. Therefore, the Marketplace was obliged to comply with the November 6, 2014 notice, and properly found that you were eligible for APTC up to \$409.95 per month, and ineligible for cost-sharing reductions or Medicaid. The November 6, 2014 eligibility determination is AFFIRMED.

However, you testified that in 2015 you expect to receive between \$10,000.00 and \$12,000.00 through your job, which averages to \$11,000.00. You further expect to make an additional \$10,000.00 through independent contracting. You testified that in 2015 your wife expects to make between \$12,000.00 and \$15,000.00 from her job, which averages to \$13,500.00. Typically, the Marketplace will also deduct any allowable income tax deductions allowed by the IRS from your household income. You testified that you intended to take a tuition and fees deduction on your 2015 tax return in the amount of \$4,000.00. Therefore, although your household's modified adjusted gross income (MAGI) would have been \$34,500.00, without the deduction for tuition, it is now \$30,500.00, based on the new evidence you have produced.

This income does not appear to be consistent with your current eligibility for APTC, which appears to have relied on different income information.

Your case is therefore returned to the Marketplace for a determination of your eligibility for financial assistance based on a two-person household in Kings County and an expected 2015 income of \$30,500.00.

## **Decision**

The November 6, 2014 eligibility determination is AFFIRMED.

However, your case is RETURNED to the Marketplace for a determination of your eligibility for financial assistance based on a two-person household in Kings County and an expected 2015 income of \$30,500.00, taking into consideration any APTC that has already been given to you.

**Effective Date of this Decision:** August 27, 2015

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

This decision is not a final determination of your eligibility.

Your case is being returned to the Marketplace for a determination of your eligibility for financial assistance based on a two-person household in Kings County and an expected 2015 income of \$30,500.00, taking into consideration any APTC that was already been given to you.

Once a redetermination has been made, the Marketplace will issue a notice with additional information.

## **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

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).



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 November 6, 2014 eligibility determination is AFFIRMED.

This decision is not a final determination of your eligibility.

Your case is being returned to the Marketplace for a determination of your eligibility for financial assistance based on a two-person household in Kings County and an expected 2015 income of \$30,500.00, taking into consideration any APTC that has already been given to you.

Once a redetermination has been made, the Marketplace will issue a notice with additional information.

## **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:**

