



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

## Notice of Decision

Decision Date: July 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002090

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On April 21, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 19, 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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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002090

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace properly determine that you were eligible to enroll in a qualified health plan through the Marketplace, but that you were not eligible for financial assistance for health insurance?

## Procedural History

The Marketplace received your 2015 application for health insurance on March 18, 2015.

That same day, the Marketplace made a preliminary determination that you are eligible to purchase a qualified health plan at full cost through New York State of Health.

Also that same day, you spoke with the Marketplace's Account Review Unit and appealed the eligibility determination insofar as you were not eligible for financial assistance because you do not file taxes.

On March 19, 2015, the Marketplace issued a notice of eligibility determination that was consistent with the March 18, 2015 preliminary determination. That notice also stated: "You are not eligible to receive tax credits to help pay for the cost of your insurance because you said you will not be filing a federal tax return in the upcoming tax year. You must file a federal tax return to be determined eligible for the tax credit. If your circumstances change, you may reapply through the Marketplace." You were also not eligible for cost-sharing reductions (CSR) because you were not eligible for an advance

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premium tax credit (APTC). Further, you were not eligible for Medicaid because the income you provided of \$23,952.00 was over the allowable income limit of \$16,243.00.

On April 21, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) According to your March 18, 2015 application, you are the only person in your household
- 2) On your March 18, 2015 application, you attested to a household income, consisting of Title II disability benefits of \$23,952.00 annually, or \$1,996.00 monthly.
- 3) You testified that no one will be claiming you as a dependent for the 2015 tax year.
- 4) You testified that you do not intend to file a tax return for the 2015 tax year.
- 5) You testified that you do not need to file a tax return for 2015 because the only income you receive is from your Title II disability benefits and you do not have to pay taxes on that income.
- 6) You testified that you are not sure if you could file a tax return even if you are not required to do so and even if you owed no taxes, but your tax preparer has saved your information in case you choose to go this route.
- 7) You testified that you cannot afford a health insurance plan without financial assistance.

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)).

NY State of Health may authorize APTC only when it obtains certain necessary attestations from the tax filer, including an attestation that he will file an income tax return for the benefit year (45 CFR § 155.310(d)(2)(ii)(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 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 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 \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

## 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)).

An individual’s income from Social Security benefits is included in their gross income only to the extent that the sum of the person’s IRS-defined “modified adjusted gross income” and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

Social Security benefits under Title II, taxable and nontaxable, are included when determining modified adjusted gross income (see NY Soc. Serv. Law § 366(1)(a), (b)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly found that you were eligible to enroll in a qualified health plan through the Marketplace at full cost and were not eligible for financial assistance for health insurance.

To be eligible for an advance premium tax credit to help pay for the cost of health insurance during the 2015 tax year, a person must attest to planning on filing a 2015 tax return.

You testified that you do not plan to file a tax return for 2015 because you are not required to. You further testified that even if you could file a tax return although you are not required to, you do not know if you will file one for the 2015 tax year. Since the sum of your testimony is that you do not expect to file a tax return for 2015, the Marketplace cannot approve an advance premium tax credit.

To be eligible for cost-sharing reductions a person must be found eligible for advance premium tax credit. Since you are not eligible for an advance premium tax credit, you also are not eligible for cost-sharing reductions.

Medicaid benefits can be provided to an adult between the ages of 19 and 65 who has a household income no higher than 138% of the federal poverty level (FPL). Since the 2015 FPL for a one-person household is \$11,770.00, you would be eligible for Medicaid coverage with an income up to \$16,243.00 (138% of the FPL).

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On your March 18, 2015 application, you indicated that you expect to receive \$23,952.00 in Title II benefits during 2015. These benefits are counted as modified adjusted gross income when determining Medicaid eligibility. Since your household income of \$23,952.00 is higher than the Medicaid financial eligibility limit of \$16,243.00, the March 19, 2015 eligibility determination notice was correct when it said you were not eligible for Medicaid.

Since the March 19, 2015 eligibility determination notice correctly stated that you are not eligible for advance premium tax credit, cost sharing reductions or Medicaid benefits, it is correct and is AFFIRMED.

## **Decision**

The March 19, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** July 8, 2015

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

You remain eligible to enroll in a qualified health plan through the Marketplace.

You are not eligible for an advance premium tax credit during 2015 because you attested that you do not plan to file a 2014 tax return.

You are not eligible for cost-sharing reductions because you are not eligible for the advance premium tax credit.

You are not eligible for Medicaid because your 2015 income is over the allowable income limit for this program.

## **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

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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 March 19, 2015 eligibility determination notice is **AFFIRMED**.

You are not eligible for an advance premium tax credit during 2015 because you attested that you do not plan to file a 2015 tax return.

You are not eligible for cost-sharing reductions because you are not eligible for the advance premium tax credit.

You are not eligible for Medicaid because your 2015 income is over the allowable income limit for this program.



## **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]