



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

## Notice of Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002198



Dear [REDACTED],

On April 24, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 6, 2015, March 8, 2015, and March 16, 2015 eligibility determinations.

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

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002198

[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 not eligible for an advance premium tax credit (APTC) or for cost sharing reductions?

Did the Marketplace properly determine that you were not eligible for Medicaid?

## Procedural History

On March 6, 2015 the Marketplace received your updated application for health insurance.

On March 6, 2015, March 8, 2015, and March 16, 2015, eligibility redetermination notices were issued. The notices stated that you were eligible to purchase a qualified health plan at full cost. You were not eligible to receive APTC because the primary tax filers in your house are married but not filing taxes jointly. Because you were not eligible for APTC, you were also not eligible for cost-sharing reductions. You also were not eligible for Medicaid because your income was over the allowable limit for that program.

On March 23, 2015 the Marketplace's Account Review Unit received your written request for an appeal of that eligibility determination insofar as you did not receive financial assistance.

On April 24, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Spanish Interpreters # [REDACTED] and # [REDACTED] assisted

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during the hearing. 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.) You testified that you will be filing your 2015 income tax return with a tax filing status of married filing separately. You will claim no dependents on that income tax return.
- 2.) You testified that you have no children that you will claim as dependents on your tax return.
- 3.) You testified that you are currently married and that you do not plan to legally separate from or divorce your spouse.
- 4.) You testified that you last lived with your spouse three years ago.
- 5.) Your application lists an expected annual income of \$17,680.00. You testified that the income on your application is correct.
- 6.) Your application states that you reside in Bronx County.

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)).

Additionally, a tax filer who is married must file a joint return with his or her spouse in order to qualify for APTC (45 CFR §§ 155.305(f), 155.310(d); 26 CFR § 1.36B-2).

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However, an individual will be treated as not married at the close of the taxable year if the individual

- 1) Is legally separated from his/her spouse under a decree of divorce or of separate maintenance, or
- 2) Meets all of the following criteria:
  - a. files a separate return from his/her spouse and maintains his/her household as the primary home for a qualifying child;
  - b. pays more than one half of the cost of keeping up his/her home for the tax year; and
  - c. does not have his/her spouse as a member of the household during the last 6 months of the tax year

(26 USC § 7703(a); 26 USC § 7703(b)).

### 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 \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

## Legal Analysis

The first issue is whether you were properly found ineligible for APTC and cost sharing reductions.

In the eligibility determination notice issued on March 16, 2015, the Marketplace denied an APTC to you because you indicated that you were married but did not plan to file a joint federal income tax return.

To qualify for an advance premium tax credit, a person who is married must either file taxes jointly with his or her spouse or qualify as “not married” at the close of the tax year.

According to the documents in the record and your testimony at the hearing, you are still married to your spouse and have not obtained a decree of divorce or of separate maintenance. Also, you confirmed that you do not plan to file a joint federal income tax return with your spouse for the 2015 tax year.

There is an exception, as noted above, that allows a tax filer to be treated as “not married” at the close of a taxable year, making the tax filer eligible for APTC. However, the record does not support a finding that you meet the necessary requirements for that exception.

Therefore, the Marketplace was correct when it found that you were not eligible for APTC due to your tax filing status.

Cost-sharing reductions are available only to those who meet the requirements for APTC. Since you did not qualify for APTC, the Marketplace correctly found that you were not eligible for cost-sharing reductions.

The second issue is whether the Marketplace properly determined that you were ineligible for Medicaid.

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 (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. On the date of the March 16, 2015 eligibility determination, your application listed an expected annual income of \$17,680.00. You testified that the income on your application was correct. Since \$17,680.00 is 150.21% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis.

Since the March 16, 2015 eligibility determination properly stated that, based on the information you provided, you were not eligible for APTC, not eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is **AFFIRMED**.

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## **Decision**

The March 16, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** August 21, 2015

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

You remain eligible to purchase a qualified health plan at full cost.

## **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
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## **Summary**

The March 16, 2015 eligibility determination is AFFIRMED.

You remain eligible to purchase a qualified health plan at full cost.

## **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:**

