



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

## Notice of Decision

Decision Date: July 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002228

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On May 4, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 24, 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

Decision Date: July 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002228

[REDACTED]  
[REDACTED]  
[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 spouse were not eligible for any advance premium tax credit or cost-sharing reductions?

## Procedural History

On February 24, 2015, the Marketplace issued a notice of eligibility determination that stated you and your spouse were eligible to enroll in a qualified health plan at full cost through New York State of Health, effective April 1, 2015, but were not eligible for an advance premium tax credit or cost-sharing reductions because the income you provided in your application (\$79,160.00) was over the allowable income limits for these programs.

On March 30, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it did not approve any financial assistance toward the cost of your monthly health insurance premiums.

On May 4, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence.

On May 12, 2015, the Marketplace's Appeals Unit received your supporting evidence via facsimile, which included a copy of your 2013 tax summary report, and a 2012-2013 federal income tax comparison. The documents were

collectively marked as Appellant's Exhibit 1, and incorporated into the record. The record was closed on May 12, 2015.

## **Findings of Fact**

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

- 1) You testified, and the record reflects, that you expect to file your 2015 federal income tax return as married filing jointly, and will claim your child as a dependent on that tax return.
- 2) You testified, and the record reflects, that you and your spouse are the only individuals in your household seeking insurance through the Marketplace.
- 3) According to your February 23, 2015 application for health insurance, you expect an annual income of \$39,569.66, and your spouse expects an annual income of \$42,640.00. Therefore, you expect a household income of \$82,209.66 for the 2015 tax year. You testified that this income is an accurate reflection of your expected income for the 2015 tax year.
- 4) You testified that you and your spouse expect to earn the same amount in 2015 as was earned in 2014. The evidence submitted, confirms your joint adjusted gross income for the 2013 tax year, not 2014.
- 5) You testified that you expect to take mortgage and student loan interest deductions on your 2015 federal income tax return, but did not specify the anticipated deduction amount.
- 7) The record reflects that you reside in Bronx County, New York.
- 8) You testified that you cannot afford a monthly premium with your other mandatory financial obligations.

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);

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(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)).

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 \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

Eligibility for the advance premium tax credit (APTC) is based on the taxpayer's modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR 155.300(a)). Generally, MAGI is your adjusted gross income plus any non-taxable Social Security income, non-taxable interest income and non-taxable foreign income that you receive (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).

### 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)).

### Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that person can show that he 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 qualified health plan (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)).

## Catastrophic Plan Eligibility

A person who has applied for and received a hardship exemption may enroll in a catastrophic coverage plan regardless of age (45 CFR § 155.305(h)(2)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that you and your spouse were not eligible for an advance premium tax credit (APTC) and not eligible for cost-sharing reductions.

According to the record, you and your spouse expect to file as married filing jointly on your 2015 federal income tax return and claim one dependent. Therefore, you are a three-person household.

A three-person household may qualify for APTC if the annual household income is between \$27,310.20 (138% of the 2014 federal poverty level (FPL)) and \$79,160.00 (400% of the 2014 FPL).

According to your February 23, 2015 application for health insurance, your 2015 expected household income is \$82,209.66. An annual household income of \$82,209.66 equals 409.21% of the 2015 FPL for a three-person household. Therefore, because your 2015 expected household income exceeds \$79,160.00 (400% of the 2014 FPL), the Marketplace correctly determined that you and your spouse were not eligible for APTC.

Since you were not eligible to receive APTC, the Marketplace correctly determined that you were not eligible for cost-sharing reductions. Therefore, your February 24, 2015 eligibility determination is AFFIRMED.

You testified that you and your spouse cannot afford to pay the monthly insurance premium, even if you have APTC and cost-sharing reductions, due to your other mandatory financial obligations. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can visit the Federal marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

If you and your spouse are approved for a hardship exemption, you may apply for catastrophic health coverage, regardless of age.

## **Decision**

The February 24, 2015 eligibility determination is AFFIRMED.

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**Effective Date of this Decision:** July 15, 2015

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

This Decision does not change your eligibility.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can visit the Federal marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

If you are approved for a hardship exemption, you may apply for catastrophic health coverage, regardless of age.

## **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

## **Summary**

The February 24, 2015 eligibility determination is **AFFIRMED**.

This Decision does not change your eligibility.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can visit the Federal marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

If you are approved for a hardship exemption, you may apply for catastrophic health coverage, regardless of age.

## **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]