



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: AP000000002321

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On May 7, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 27, 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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[REDACTED]  
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## 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 up to \$236.00 per month in advance premium tax credit and cost-sharing reductions?

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

## Procedural History

On March 27, 2015, the Marketplace issued a notice of eligibility determination stating that you are eligible to receive up to \$236.00 per month in advance premium tax credits, and are eligible for cost-sharing reductions if you pick a silver level health insurance plan. The notice further stated that you are not eligible for Medicaid because the household income you provided is over the allowable income limit for that program. This determination was based on a household income of \$37,557.00.

On April 7, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it did not determine you Medicaid eligible, and did not approve an advance premium tax credit of more than \$236.00 per month.

On May 7, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and

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left open until June 2, 2015 to provide you an opportunity to submit supporting income documentation.

On May 22, 2015, the Marketplace's Appeals Unit received your supporting documentation, which included a written explanation of your income, a copy of your 2014 W-2 Wage and Tax Statement, a copy of your 2014 federal income tax form 1099-R, a copy of your spouse's 2014 W-2 Earnings Summary, and a copy of your 2014 joint federal and state income tax return. These documents were collectively marked as Appellant's Exhibit 2 and incorporated into the record. The record was closed on June 2, 2015.

## **Findings of Fact**

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

- 1) According to the March 26, 2015 application for health insurance, you expect to file your 2015 federal income tax return jointly with your spouse and claim your son and daughter as dependents.
- 2) You testified that you expect to file your 2015 federal income tax return jointly with your spouse, but will only claim your daughter as a dependent.
- 3) You testified that you are the only individual in your household seeking insurance through the Marketplace.
- 4) According to the March 26, 2015 application, you attested to an expected income of \$18,785.00, and your spouse attested to an expected income of \$18,772.00 for the 2015 tax year. However, you testified that this income is not an accurate reflection of your expected income for the 2015 tax year. You further testified and provided evidence that you earn \$13.00 per hour and work approximately 40 hours per week (Appellant's Exhibit 1, Appellant's Exhibit 2). You further testified that you and your spouse expect to earn \$27,040.00 each before taxes (you work at the same place) for the 2015 tax year.
- 5) You testified that you do not plan on taking any deductions on your 2015 federal income tax return.
- 6) You testified, and the record reflects, that you reside in Westchester County, NY.

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)).

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 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).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 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 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 \$23,850.00 for a four-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 150% but less than 200% of the 2015 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

## 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 federal poverty level (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 \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

## **Legal Analysis**

The first issue under review is whether the Marketplace properly determined that you are eligible to receive an advance premium tax credit (APTC) of up to \$236.00 per month and eligible to receive cost-sharing reductions.

According to the March 26, 2015 application for health insurance, you expect to file your 2015 federal income tax return jointly with your spouse, and claim your son and daughter as dependents; therefore, you are a four-person tax household.

According to the same application, you attested to an expected household income of \$37,557.00. The eligibility determination relied upon that information.

You reside in Westchester County, where the second lowest cost silver plan available for 2015 for an individual through the Marketplace costs \$372.40 per month.

An annual income of \$37,557.00 is 157.47% of the 2014 federal poverty level (FPL) for a four-person household. At 157.47% of the FPL, the expected contribution to the cost of the health insurance premium is 4.37% of income, or \$136.77 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$372.40 per month) minus your expected contribution (\$136.77 per month), which equals \$235.63 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$236.00 per month.

Cost-sharing reductions are available to a person who is eligible to enroll in a qualified health plan (QHP) through the Marketplace, meets the requirements to receive APTC, is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested, and is enrolled in a silver-level QHP. Since you are eligible to enroll in a QHP, qualify for APTC, and have a household income that does not exceed 250% of the FPL, the Marketplace correctly determined that you are eligible for cost-sharing reductions if you enroll in a silver-level QHP.

The next issue is whether the Marketplace properly determined that you are not eligible for Medicaid.

Medicaid is available to adults who meet the nonfinancial requirements, and have a household income at or below 138% of the FPL for the applicable family size. Since a household income of \$37,557.00 is 154.87% of the 2015 FPL for a four-person household, the Marketplace properly determined that you were not eligible for Medicaid.

Since the March 27, 2015 notice of eligibility determination accurately stated that, based on the information in your March 26, 2015 application, you were not eligible for Medicaid but are eligible to receive an APTC of up to \$236.00 per month and, if you enrolled in a silver-level plan, cost-sharing reductions, it is correct and is AFFIRMED.

However, at the hearing, you testified that you and your spouse expect to file your 2015 federal income tax return jointly and only claim one child as a dependent; therefore, you are a three-person tax household. You further testified that you and your spouse each expect to earn \$27,040.00 for the 2015 tax year and, thus, have an expected household income of \$54,080.00 in 2015.

Therefore, your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance using an expected household income of \$54,080.00, for a three-person household, residing in Westchester County.

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).

## **Decision**

The March 27, 2015 notice of eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace to redetermine your eligibility for financial assistance using an expected household income of \$54,080.00, for a household of three people, residing in Westchester County.

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

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

This decision does not change your eligibility.

It does return your case to the Marketplace to redetermine your eligibility for financial assistance using an expected household income of \$54,080.00, for a household of three people, residing in Westchester County.

## **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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The March 27, 2015 notice of eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

Your case is **RETURNED** to the Marketplace to redetermine your eligibility for financial assistance using an expected household income of \$54,080.00, for a household of three people, residing in Westchester County.

## **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]