



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

## Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002385

[REDACTED]

Dear [REDACTED],

On May 27, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 11, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002385



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that as of April 11, 2015, you were eligible to receive an advanced premium tax credit of up to \$128.00 per month?

Did the Marketplace properly determine that as of April 11, 2015, you were not eligible for cost-sharing reductions and Medicaid?

## Procedural History

On April 10, 2015 you updated your Marketplace account.

The Marketplace rendered a preliminary eligibility determination finding you eligible for up to \$128.00 monthly of advance premium tax credit (APTC). Your eldest daughter was found eligible to enroll in Child Health Plus with a \$9.00 monthly premium. The Marketplace directed you to “submit documents by the date below to confirm that the information you provided in your [daughter’s] application is accurate. Your youngest daughter was found eligible for Medicaid.

On April 11, 2015 the Marketplace issued an eligibility determination notice stating that you are eligible for up to \$128.00 monthly of APTC and not eligible for cost-sharing reductions (CSR) or Medicaid because your household income is over the allowable income limit. Your eldest daughter was found “temporarily eligible for Child Health Plus because [they] were unable to confirm the income

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information in your application with state and data sources.” Your youngest daughter was found eligible for Medicaid.

On the same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible to receive.

On May 27, 2015 you appeared for the scheduled telephone hearing. Testimony was taken at 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 applied for health insurance through the Marketplace for yourself and your two children on April 10, 2015.
2. You testified that you are appealing only your eligibility determination.
3. You testified that you plan on filing a 2015 federal income tax return with the tax status of single and will not claim any dependents on that return.
4. You testified that you have been employed by [REDACTED] for the last five years.
5. According to your April 10, 2015 Marketplace application, your 2015 expected income is \$32,657.95.
6. On April 7, 2015 you submitted two biweekly earnings statements. You received \$1,039.86 in taxable gross income on March 20, 2015 and \$989.51 in taxable gross income on April 3, 2015.
7. You testified that the amount of taxable gross income you received on your April 17, 2015 earnings statement is similar to your April 3, 2015 earnings statement.
8. You reside in Queens County, New York.
9. You testified that you are unable to afford the monthly health insurance premiums with your monthly expenses.

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 2014 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 at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), IRS Rev. Proc. 2014-37).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their income tax form). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund. Those who take more tax credit in advance than

they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

### 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 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).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

### Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan QHP. Such an exemption may be granted if that person can show that 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 first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$128.00 per month.

In the application that was submitted on April 10, 2015 you attested to an expected yearly income of \$32,657.95, and the April 11, 2015 eligibility determination relied upon that information.

According to the record you plan on filing your 2015 federal income tax return with the tax status of single and claim no dependents on that return. Therefore, the record indicates that you are a tax household of one.

You reside in Queens County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$32,657.95 is 279.85% of the 2014 Federal Poverty Level (FPL) for a one-person tax household. At 279.85% of the FPL, the expected contribution to the cost of the health insurance premium is 8.97% of income, or \$244.15 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 (\$371.75 per month) minus your expected contribution (\$244.15 per month), which equals \$127.60 per month. Therefore, the Marketplace correctly determined that you are eligible to receive an APTC up to \$128.00 per month.

The second issue is whether the Marketplace properly determined that you were eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$32,657.95 is 279.85% of the 2014 FPL, the Marketplace correctly found you to be not eligible for CSR.

The third 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

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\$11,770 for a one-person household. Since \$32,657.95 is 277.47% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

On April 7, 2015, you uploaded two earnings statements to the Marketplace. You received \$1,039.86 in taxable gross income on March 20, 2015 and \$989.51 in taxable gross income on April 3, 2015. You credibly testified that your April 17, 2015 is similar to your April 3, 2015 earnings statement. Based on the available record, your monthly earnings was approximately  $(\$989.51 \times 2)$  \$1,979.02 in April 2015.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,354.00 per month. Since your April 2015 income was approximately \$1,979.02, you did not qualify for Medicaid.

Since the April 11, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$128.00 per month, not eligible for CSR, and not eligible for Medicaid, it is correct and is **AFFIRMED**.

## **Decision**

The April 11, 2015 eligibility determination is **AFFIRMED**.

**Effective Date of this Decision:** August 14, 2015

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

The April 11, 2015 eligibility determination is correct, so it remains in effect.

You are eligible for an advance premium tax credit of up to \$128.00 per month and not eligible for cost-sharing reductions and Medicaid

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **If You Disagree with this Decision (Appeal Rights)**

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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 April 11, 2015 eligibility determination is correct, so it remains in effect.

You are eligible for an advance premium tax credit of up to \$128.00 per month and not eligible for cost-sharing reductions and Medicaid

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If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **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:**



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