



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

## Notice of Decision

Decision Date: July 30, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002395

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On May 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 15, 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: AP000000002395

[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 and your spouse were eligible to receive an advance premium tax credit of up to \$297.00 per month and, if you enrolled in a silver level health plan, cost-sharing reductions?

Did the Marketplace properly determine that you and your spouse are not eligible for Medicaid?

## Procedural History

On April 14, 2015, you updated your Marketplace account. The Marketplace prepared a preliminary eligibility determination stating that you and your spouse are eligible for up to \$297.00 monthly in advance premium tax credits and cost-sharing reductions. Your children were determined not eligible for financial assistance.

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

On April 15, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse are eligible to receive up to \$297.00 per month in advance premium tax credits and, if you select a silver level health plan, cost-sharing reductions. Your three children were determined eligible to purchase a qualified health plan at full cost through the Marketplace. The notice further

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stated you and your spouse were not eligible for Medicaid because your household income was over the allowable limit for that program.

On May 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken during the hearing. The record is now complete and closed.

## **Findings of Fact**

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

1. You are applying for health insurance through the Marketplace for yourself and your spouse.
2. You and your spouse received Medicaid benefits in 2014.
3. You plan on filing a 2015 federal income tax return with the tax status of married filing jointly and will claim three dependents on that return.
4. In the application you submitted on April 14, 2015, you attested to a household income of \$69,230.64. You testified that your spouse has an expected 2015 income of \$69,230.64 and receives consistent bi-monthly paychecks of \$2,884.61.
5. You testified that you do not expect any income for 2015.
6. You reside in Suffolk County, New York.
7. You testified that because of your monthly expenses the health insurance offered through the Marketplace is not affordable.

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)).

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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).

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 \$27,910.00 for a five-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a) ), IRS Rev. Proc. 2014-37).

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 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)).

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## 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 \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

Financial eligibility for Medicaid for applicants who are 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).

## Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or 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 \$297.00 per month and cost-sharing reductions.

In the application that was submitted on April 14, 2015, you attested to an expected yearly income of \$69,230.64, and the eligibility determination relied upon that information.

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According to the record, you plan on filing your 2015 federal income tax return with the tax status of married filing jointly and claim three dependents on that return. Therefore, the record indicates that you have a tax household of five people.

You reside in Suffolk County, where the second lowest cost silver plan available for a couple through the Marketplace costs \$759.86 per month.

An annual income of \$69,230.64 is 248.05% of the 2014 Federal Poverty Level (FPL) for a five-person tax household. At 248.05% of the FPL, the expected contribution to the cost of the health insurance premium is 8.03% of income, or \$463.32 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 (\$759.86 per month) minus your expected contribution (\$463.32 per month), which equals \$296.54 per month. Therefore, the Marketplace correctly determined that you are eligible to receive an APTC up to \$297.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$69,230.64 is 248.05% of the 2014 FPL, the Marketplace correctly found you to be 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 \$28,410.00 for a five-person household. Since \$69,230.64 is 243.08% 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.

Financial eligibility for Medicaid for applicants who are 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 \$3,268.00 per month. Since your spouse receives consistent bi-monthly paychecks of \$2,884.61, your \$5,769.22 monthly income exceeds the income limit and you do not qualify for Medicaid.

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Since the April 15, 2015 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for an APTC of up to \$297.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

## **Decision**

The April 15, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** July 30, 2015

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

The April 15, 2015 eligibility determination is correct, so it remains in effect.

You are eligible for an advance premium tax credit of up to \$297.00 per month and cost-sharing reductions, if enrolled in a silver-level plan.

You are not eligible for Medicaid.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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)**

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.

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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 15, 2015 eligibility determination is **AFFIRMED**.

You are eligible for an advance premium tax credit of up to \$297.00 per month and cost-sharing reductions, if enrolled in a silver-level plan.

You are not eligible for Medicaid.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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.

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## **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]