



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

## Notice of Decision

Decision Date: September 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002694

[REDACTED]

Dear [REDACTED],

On June 5, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 12, 2014 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

Decision Date: September 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002694



## Issue

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

Did the Marketplace properly determine that you were eligible to receive up to \$242.00 per month in advance premium tax credit, eligible for cost-sharing reductions, and ineligible for Medicaid effective December 12, 2014?

## Procedural History

On December 11, 2014, the Marketplace received your initial application for health insurance in which you attested to an annual income of \$16,952.00.

On December 12, 2014 the Marketplace issued an eligibility determination notice based on the information contained in your initial application stating that you were eligible for up to \$242.00 per month in advanced premium tax credit (APTC), and eligible for cost-sharing reductions (CSR). You were found not to be eligible for Medicaid.

On May 1, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to Medicaid eligibility.

On June 5, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide additional evidence in the form of documentation reflecting your income. The record was to be closed

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15 days after the hearing date, or upon the receipt of the above referenced documentation, whichever occurred earlier.

No documentation was received and the record was closed on June 22, 2015.

## **Findings of Fact**

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

- 1) You are single and have no children.
- 2) You expect to file a U.S. income tax return for 2015, file as “single” and claim no dependents.
- 3) You testified that you will not be taking any deductions on your 2015 tax return.
- 4) Your application states that you live in Orleans County, New York.
- 5) You testified that you are currently employed.
- 6) Your application stated that you currently earn \$326/week before taxes.
- 7) You testified that you have no other sources of income currently, and that \$326 per week income seemed high to you.
- 8) You testified that your current income level and other living expenses makes any insurance premiums, even after applying the tax credit available through the Marketplace, unaffordable to you.

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 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

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(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 2014 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 2015 FPL, which is \$11,770 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 federal income tax return). 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 or have their tax bill reduced. 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)).

## 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 for a one -person household (79 Fed. Reg. 3593).

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).

## Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

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 December 11, 2014 application that was the 2015 FPL, which is \$11,770 for a one-person household (79 Fed. Reg. 3593). Accordingly, for a one person household, the maximum allowable income to be eligible for Medicaid is \$16,243.00 (138% federal poverty level (FPL)), which is \$1,354.00 per month.

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 by the US Department of Health and Human Services, March 19, 2014).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$242.00 per month. On the application that was submitted on December 11, 2014 you attested to an annual household income of \$16,952.00 and the eligibility determination relied upon that information.

According to the record, you expect to file as “single” on your U.S. Income Tax return for 2015 and claim no dependents. Therefore you are in a one-person tax household. You reside in Orleans County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$295.03 per month.

An annual income of \$16,952.00 is 144% of the 2015 FPL for a one-person household. At 144% of the FPL, the expected contribution to the cost of the health insurance premium is 3.1% of income, or \$53.00 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 (\$295.03 per month) minus your expected contribution (\$53 per month), which equals \$242.03 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$242.00 per month in APTC. Therefore your eligibility determination from the marketplace is **AFFIRMED**.

The second issue is whether you were properly found eligible for cost-sharing reductions. 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 \$16,952.00 is 144% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions. The marketplace’s decision is **AFFIRMED**.

The third issue is whether the Marketplace properly determined that you were not eligible 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 \$16,243.00 for a one-person household. At your current monthly income level you attested to in your application of \$1,412, you are above the Medicaid monthly

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threshold amount of \$1,343. Therefore the Marketplace properly found you to be ineligible for Medicaid as of December 12, 2014.

You testified that the income you applied with seemed “high” to you. The Hearing Officer kept the record open for an additional 15 days so that you could provide income verification documents showing your current weekly income. The Appeals Unit did not receive any such documentation within the applicable time period.

Since the December 12, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$242.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid as of December 12, 2014 determination is correct and is AFFIRMED.

## **Decision**

The December 12, 2014 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$242.00 per month in APTC, eligible for cost-sharing reductions and ineligible for Medicaid as of December 12, 2014.

This decision has no effect on any determination made by the Marketplace subsequent to December 12, 2014.

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

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

You remain eligible for up to \$242.00 per month in APTC, eligible for cost-sharing reductions and ineligible for Medicaid as of December 12, 2104.

This determination does not affect your eligibility.

## **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

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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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The December 12, 2014 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$296.00 per month in (APTC), and eligible for cost-sharing reductions and ineligible for Medicaid as of December 12, 2014.

This decision has no effect on any determination made by the marketplace subsequent to December 12, 2014.

### **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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

