



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

## Notice of Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002881

[REDACTED]

Dear [REDACTED],

On June 11, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 14, 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).

This page intentionally left blank.



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

## Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002881



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were eligible for up to \$14.00 per month in advance premium tax credit effective April 1, 2015?

Did the Marketplace properly determine that you are not eligible for cost-sharing reductions?

## Procedural History

On March 14, 2015, the Marketplace issued a notice of eligibility determination stating that you were newly eligible to receive an advance premium tax credit of up to \$14.00 per month. The notice further stated that you were not eligible for cost-sharing reductions because your income was over the allowable limit for that program. Your eligibility was effective April 1, 2015. This determination was based on an expected household income of \$46,000.00.

On May 7, 2015, the Marketplace received your written request to appeal this determination insofar as it did not approve an advance premium tax credit of more than \$14.00 per month.

On June 11, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

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).

## 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 single and claim no dependents.
- 2) According to the March 13, 2015 application, you attested to an expected household income of \$46,000.00 for the 2015 tax year, which includes \$10,000.00 in expected earned income and \$36,000.00 in alimony payments. You testified that you are a seasonal worker and your last day of work was March 21, 2015. You expect to return to work in September 2015. You further testified that, currently, your only source of income is your monthly alimony payment of \$3,000.00.
- 3) You testified that you do not expect to take any deductions on your 2015 federal income tax return.
- 4) You testified, and the record reflects, that you reside in Nassau County.
- 5) You testified that you cannot afford a health insurance premiums due to a high cost of living.

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 Line (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 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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution is 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 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 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)).

### Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

For the purposes of determining a person's eligibility for financial assistance for health insurance through the Marketplace, the term "MAGI" means adjusted

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).

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 savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

“Gross income” is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61). However, gross income includes amounts received as alimony or separate maintenance payments (26 USC § 71(a)).

## **Legal Analysis**

The first issue review is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$14.00 per month.

According to the March 13, 2015 application for health insurance, you expect to file your 2015 federal income tax return as Single, and claim no dependents; therefore, you are a one-person tax household.

According to the same application, you attested to an expected household income of \$46,000.00, which includes \$10,000.00 in earned income and \$36,000.00 in alimony payments. Since alimony payments received are included as part of a taxpayer’s gross income, it was properly applied to your expected income for the 2015 tax year. The eligibility determination relied upon that information.

You reside in Nassau County, where the second lowest cost silver plan available in 2015 for an individual through the Marketplace costs \$379.93 per month.

An annual income of \$46,000.00 is 394.17% of the 2014 federal poverty level (FPL) for a one-person household. At 394.17% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$366.33 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

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).

in your county (\$379.93 per month) minus your expected contribution (\$366.33 per month), which equals \$13.60 per month. Rounded to the nearest dollar, the Marketplace correctly determined your APTC to be \$14.00 per month.

The second issue is whether the Marketplace properly found you not 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 \$46,000.00 is 394.17% of the applicable FPL, the Marketplace correctly found you to be not eligible for cost sharing reductions.

Therefore, the March 14, 2015 eligibility determination is **AFFIRMED**.

## **Decision**

The March 14, 2015 eligibility determination is **AFFIRMED**.

**Effective Date of this Decision:** August 25, 2015

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

The March 14, 2015 eligibility determination has since been superseded by a notice of eligibility determination issued on May 14, 2015.

The May 14, 2015 eligibility determination remains in effect.

## **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 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).

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 14, 2015 eligibility determination is AFFIRMED.

The March 14, 2015 eligibility determination has since been superseded by a notice of eligibility determination issued on May 14, 2015.

The May 14, 2015 eligibility determination remains in effect.

### **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:**



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).