



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

## Notice of Decision

Decision Date: October 19, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003017

[REDACTED]

Dear [REDACTED],

On August 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 20, 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.

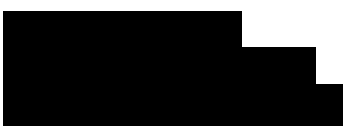


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Decision

Decision Date: October 19, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003017



## Issues

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

Did the Marketplace properly determine that you are eligible to receive an advanced premium tax credit of up to \$171.00 per month and cost-sharing reductions as of May 20, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid as of May 20, 2015?

## Procedural History

The Marketplace received your application for health insurance on May 19, 2015.

On May 19, 2015, Marketplace rendered a preliminary eligibility determination that you are eligible for up to \$171.00 of advance premium tax credits and cost-sharing reductions.

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 20, 2015, the Marketplace issued a notice of eligibility determination stating: You are eligible to receive up to \$171.00 monthly of advance premium tax credit and cost-sharing reductions, if you enroll in a silver-level qualified health plan. The notice also stated that you are not eligible for Medicaid because your household income is over the allowable limit.

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).

On August 28, 2015, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was left open until August 31, 2015 to allow you to submit additional income documentation.

On August 28, 2015, you submitted a four-page fax to the Marketplace Appeals Unit. The fax was marked as "Appellant Exhibit A" and was made part of the record. 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.
2. You plan on filing a 2015 federal income tax return with the tax status of married filing jointly, with your spouse, and will not claim any dependents on that return.
3. According to your May 19, 2015 Marketplace application, you attested to a 2015 expected household income of \$34,500.00. You attested to receiving \$7,200.00 from [REDACTED] and your spouse expecting to receive (\$2,275.00 X 12) \$27,300.00 in Social Security Benefits in 2015.
4. You testified that you were employed at [REDACTED] until May 18, 2015, and earned approximately \$6,500.00 in 2015.
5. On August 28, 2015, you faxed your Official Record of Benefit Payment History from the New York Department of Labor. Your unemployment insurance benefits had a start date of May 18, 2015 and has an end date of May 22, 2016. You were determined eligible for a maximum payable amount of \$8,710.00 (Appellant Exhibit A p. 2).
6. You were issued unemployment insurance benefits in the gross weekly benefit amount of :
  - (a) \$251.25 on 7/10/2015;
  - (b) \$335.00 on 7/10/2015;
  - (c) \$335.00 on 7/10/2015;
  - (d) \$335.00 on 7/10/2015;
  - (e) \$335.00 on 7/10/2015;
  - (f) \$335.00 on 7/10/2015;
  - (g) \$335.00 on 7/13/2015;
  - (h) \$335.00 on 7/20/2015;
  - (i) \$335.00 on 7/27/2015;
  - (j) \$335.00 on 8/03/2015;
  - (k) \$335.00 on 8/11/2015;

- (l) \$335.00 on 8/17/2015;
  - (m) \$335.00 on 8/24/2015.
- (Appellant Exhibit A p. 3-4).

- 7. You testified that your spouse receives \$2,000.00 in Social Security Disability Insurance Benefits on a monthly basis.
- 8. You testified that the plans offered through the Marketplace are not affordable.
- 9. You reside in Dutchess County, New York.

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 200% but less than 250% of the 2014 FPL, the expected contribution is between 8.10% and 6.34% 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 \$15,730.00 for a two-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).

### 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 qualified health plan (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)).

### 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

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).

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 \$15,930.00 for a two-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)(2); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

## **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 \$171.00 per month.

In the application that was submitted on May 19, 2015, you attested to an expected yearly household income of \$34,500.00, and the 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 married filing jointly, with your spouse, and will claim no dependents on that return. Therefore, the record indicates that you a tax household of two.

You reside in Dutchess County, New York, where the second lowest cost silver plan available for an individual through the Marketplace costs \$372.38 per month.

An annual income of \$34,500.00 is 219.33% of the 2014 federal poverty level (FPL) for a two-person tax household. At 219.33% of the FPL, the expected contribution to the cost of the health insurance premium is 7.02% of income, or \$201.83 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 (\$372.38 per month) minus your expected contribution (\$201.83 per month), which equals \$170.55 per month. Therefore, the Marketplace correctly determined that you are eligible to receive an APTC up to \$171.00 per month.

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).

The second issue is whether the Marketplace properly determined that you were 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 \$34,500.00 is 219.32% of the 2014 FPL, the Marketplace correctly found you to be eligible for cost-sharing reductions.

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 \$15,930 for a two-person household. Since \$34,500.00 is 216.57% of the 2015 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

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 \$1,832.00 per month. According to your May 19, 2015, Marketplace application, your spouse was receiving \$2,275.00 monthly in Social Security Benefits. Therefore, your May 2015 household income was at least \$2,275.00 and you did not qualify for Medicaid.

Since the May 20, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$171.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, based on the available record, the \$34,500.00 household income you attested to in your May 19, 2015 Marketplace application, no longer accurately represents your 2015 household income.

You testified you were employed at [REDACTED] until May 18, 2015, and earned approximately \$6,500.00 in 2015. The record shows that you were approved for unemployment insurance benefits with an effective start date of May 18, 2015 with a maximum amount payable of \$8,710.00.

Furthermore, you credibly testified that your spouse expects to receive (\$2,000.00 X 12) \$24,000.00 in Social Security Benefits in 2015.

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).



Since your unemployment insurance benefits were not included in your May 19, 2015 Marketplace application and may materially affect the amount of APTC you were determined eligible to receive, your case is RETURNED to the Marketplace for a redetermination of your eligibility based on an expected household income of \$39,210.00.

## **Decision**

The May 20, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace for a redetermination of your eligibility based on an expected household income of \$39,210.00 for a household of two residing in Dutchess County, New York.

**Effective Date of this Decision:** October 19, 2015

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

This decision does not change your eligibility.

Your case is RETURNED to the Marketplace for a redetermination of your eligibility based on an expected household income of \$39,210.00 for a household of two residing in Dutchess County, New York.

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.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be

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).

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**

This decision does not change your eligibility.

Your case is RETURNED to the Marketplace for a redetermination of your eligibility based on an expected household income of \$39,210.00 for a household of two residing in Dutchess County, New York.

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).

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).

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

