



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

## Notice of Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003372

[REDACTED]

Dear [REDACTED],

On July 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 5, 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 Code of 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).

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## Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003372

[REDACTED]

## Issues

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 \$257.00 per month in advance premium tax credit and, if you select a silver-level qualified health plan, eligible for cost sharing reductions, effective July 1, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid?

## Procedural History

On June 4, 2015, the Marketplace received your updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the last application, stating in relevant part that you are eligible to receive up to \$257.00 per month of advance premium tax credits (APTC) and eligible for cost sharing reductions (CSR).

On June 5, 2015, the Marketplace issued an eligibility determination notice that was consistent with the June 4, 2015 preliminary eligibility redetermination.

On June 8, 2015, you spoke with the Marketplace's Account Review Unit and requested an appeal of that eligibility determination insofar as you wanted to be eligible for more financial assistance and more affordable health coverage.

On July 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit additional documentation.

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As of August 4, 2015, the Appeals Unit had not received any faxed documents from you and no new documents were uploaded to and viewable in your Marketplace Account. Accordingly, the record was closed that same day and the record herein consists of the evidence adduced at the hearing and available in your Marketplace account as of July 17, 2015.

## **Findings of Fact**

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

- 1) You testified that you expect to file your 2015 taxes with a tax filing status of Head of Household with Qualifying Individuals. You will claim your two minor children as dependents on that tax return.
- 2) You are appealing your eligibility only and not that of your two children.
- 3) According to the earning statements you submitted to the Marketplace for April and May 2015, your expected 2015 income is \$32,120.27. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2015 tax return.
- 5) You currently reside with your children in Suffolk County, New York.
- 6) You testified that you turned 26 years of age in [REDACTED] and no longer qualified for health insurance under your parent's health plan.
- 7) You testified that you have medical needs that require you to take prescription medication and frequent medical check-ups, and you cannot afford to go without health insurance.
- 8) You testified that you are looking for more financial assistance because you cannot afford to pay over \$100.00 per month for health insurance premiums on your current earnings and because you are the sole parent supporting your two minor children.

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 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 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 \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

### 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)).

On the date of your application, that was the 2015 FPL, which is \$20,090.00 for a three-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).

### 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)). Living expenses, such as rent and utilities are not an allowable deductions in computing adjusted gross income.

### Household Size

Family size means the number of persons counted as a member of an individual's household. In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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## 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 \$257.00 per month.

The application that was updated on June 4, 2015 had an annual household income of \$32,120.27, and the eligibility determination relied upon that information.

You are in a three-person tax household because you expect to file your 2015 income taxes as Head of Household with Qualifying Individuals and will claim your two minor children as dependents on that tax return.

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

An annual income of \$32,120.27 is 162.31% of the 2014 FPL for a three-person household. At 162.31% of the FPL, the expected contribution to the cost of the health insurance premium is 4.59% of income, or \$122.88 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 (\$379.93 per month) minus your expected contribution (\$122.88 per month), which equals \$257.05 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$257.00 per month in APTC.

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 \$32,120.27 is 162.31% of the applicable 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 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 annual FPL was \$20,090.00 for a three-person household. Since \$32,120.27 is 159.88% 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.

The same would be true using your monthly income for May 2015 when you first applied for health insurance through the Marketplace. On the date of your application, the relevant monthly FPL was \$2,311.00. According to your earning statements for May

2015, you earned \$2,470.49, which exceeds the monthly maximum allowable monthly income of \$2,311.00 to be eligible for Medicaid.

Since the June 5, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$257.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

You do not meet the financial requirements in the law to be eligible for Medicaid coverage during 2015 through the Marketplace. The Marketplace does not have the authority to decide if you qualify for non-MAGI-based Medicaid that month.

For more information about non-MAGI eligibility requirements for Medicaid, you can go to the website for Suffolk County Department of Social Services at [www.suffolkcountyny.gov/departments/socialservices.aspx](http://www.suffolkcountyny.gov/departments/socialservices.aspx)

## **Decision**

The June 5, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** October 15, 2015

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

You remain eligible for up to \$257.00 per month in APTC and for cost sharing reductions.

You are ineligible for Medicaid through the Marketplace.

## **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.

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).



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 June 5, 2015 eligibility determination notice is **AFFIRMED**.

You remain eligible for up to \$257.00 per month in APTC and cost sharing reductions.

You are ineligible for Medicaid through the Marketplace.

### **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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

