



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

## Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003478

[REDACTED]

Dear [REDACTED],

On July 29, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 12, 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 (CFR) 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

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NY State of Health Number: [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 were eligible to receive up to \$6.00 per month in advance premium tax credit, effective July 1, 2015?

Did the Marketplace properly determine that you were ineligible for cost-sharing reductions?

## Procedural History

On June 11, 2015, the Marketplace received your application for health insurance in which you attested to an expected yearly income of \$36,344.00.

On June 12, 2015, the Marketplace issued an eligibility determination notification that stated you were eligible to enroll in a qualified health plan (QHP) and eligible to receive an advance premium tax credit (APTC) of up to \$6.00 per month. The notice also stated that you were not eligible for cost-sharing reductions or Medicaid. This determination was effective July 1, 2015.

Also on June 15, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the June 12, 2015 eligibility determination insofar as you were found eligible for an APTC no greater than \$6.00 per month.

On July 29, 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.

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## Findings of Fact

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

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of single and will be claiming no dependents on your tax return.
- 2) You are seeking insurance only for yourself.
- 3) The application that was submitted on June 11, 2015 listed an expected yearly income of \$36,344.00, consisting of (1) \$12,334.00 you earned from your employment between January 1, 2015 and June 4, 2015, and (2) \$2,000.00 per month in alimony payments you expect to receive from your ex-spouse. 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) Your application states that you live in Erie County, New York.
- 6) You testified that since your employment ended on July 4, 2015, your tax credit ought to be based solely on the \$24,000.00 in alimony payments you anticipate receiving during 2015.

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 generally 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

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*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).

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).

### 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 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)).

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## Legal Analysis

The first issue is whether the Marketplace properly determined that you were eligible for an APTC of up to \$6.00 per month.

The application that was submitted on June 11, 2015 listed an annual household income of \$36,344.00, which was comprised of (1) \$12,334.00 you earned from your employment between January 1, 2015 and June 4, 2015, and (2) \$24,000.00 (\$2,000.00 x 12 months) in alimony payments you expect to receive from your ex-spouse. Since the earned income you received between January 1, 2015 and June 4, 2015 and the alimony payments would both appropriately be included as part of your adjusted gross income on your 2015 tax return, these were correctly included within your modified adjusted gross income (MAGI) when computing your annual household income for 2015. Therefore, the Marketplace appropriately relied upon that information in rendering your eligibility determination.

You are in a one-person household. You expect to file your 2015 income taxes as single and will not be claiming any dependents on your tax return.

You reside in Erie County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$295.03 per month.

An annual income of \$36,344.00 is 311.43% of the 2014 FPL for a one-person household. At 311.34% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$289.54 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 (\$289.54 per month), which equals \$5.49 per month. Therefore, rounding up to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$6.00 per month in APTC.

The second issue is whether you were properly found ineligible 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 \$36,344.00 is 311.43% of the applicable FPL, the Marketplace correctly found you to be ineligible for cost sharing reductions.

Since the June 12, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$6.00 per month in APTC and ineligible for CSR, it is correct and is AFFIRMED.

## **Decision**

The June 12, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** October 27, 2015

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

You remain eligible for up to \$6.00 per month in APTC.

You are ineligible for cost-sharing reductions.

### **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 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 12, 2015 eligibility determination is AFFIRMED.

You remain eligible for up to \$6.00 per month in APTC.

You are ineligible for cost-sharing reductions.

## **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:**

