



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

## Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003780

[REDACTED]

Dear [REDACTED],

On September 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 7, 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).

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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003780

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## Issue

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

Did the Marketplace properly determine that you were not eligible for financial assistance through the Marketplace, effective August 1, 2015?

## Procedural History

On July 6, 2015, the Marketplace received your application for health insurance and prepared a preliminary eligibility determination that, based on your reported annual income of \$47,697.40, you were not eligible for financial assistance but were eligible to purchase a qualified health plan at full cost through the Marketplace, effective August 1, 2015.

On that same day, you spoke with a representative from the Marketplace's Account Review Unit and requested an appeal of the preliminary eligibility determination insofar as you were not eligible for financial assistance, which you indicated you needed to obtain health insurance.

On July 7, 2015, the Marketplace issued a notice of eligibility determination that was consistent with the July 6, 2015 preliminary determination.

On September 9, 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

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open for up to fifteen days to allow you the opportunity to submit your unemployment insurance records.

As of September 25, 2015, the Appeals Unit had not received any documents from you and none were uploaded to and viewable in your Marketplace account. Therefore, the record was closed at the end of September 24, 2015. This decision is based on the evidence adduced at the September 9, 2015 hearing and available in your Marketplace account as of that date.

## **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 not be claiming any dependents on that tax return.
- 2) The application that was submitted on July 6, 2015 listed annual household income of \$47,697.40, consisting of \$41,977.40 you earn from your employment and \$6,720.00 in unemployment insurance benefits you expect to receive in 2015, less student loan interest deductions of \$1,000.00. You testified that this amount was correct.
- 3) You testified that you lost your job on May 21, 2015 and your employer sponsored health insurance ended as a result, which prompted you to complete an application for health insurance through the Marketplace on July 6, 2015.
- 4) You testified that you began collecting unemployment benefits of \$420.00 per week beginning June 14, 2015, after your one week waiting period had passed.
- 5) You testified that during July 2015, you received unemployment benefits of \$420.00 gross on July 5, 2015, July 12, 2015, July 19, 2015, and July 26, 2015, and had no other sources of income.
- 6) You testified that your unemployment benefits will run out at the end of October 2015 and, unless you are granted an extension of those benefits or find gainful employment, you will have no income come November 2015.
- 7) You testified that you want to be considered for financial assistance based on your current income circumstances and not on your annual income because you cannot afford to pay full cost for a qualified health plan based on your current monthly income.
- 8) You reside in Queens 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 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

*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).

The annual household income range for contribution calculations maxes out at 400% of the 2014 FPL, at which percentage 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

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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 \$11,770.00 for a one-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.

## Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or 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 QHP (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)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were not eligible for financial assistance through the Marketplace but could purchase a qualified health plan at full cost.

The application that was submitted on July 6, 2015 listed an annual household income of \$47,697.40 and the eligibility determination relied upon that information.

You expect to file you 2015 income taxes as Single and will not be claiming any dependents on that tax return. Therefore, you are in a one-person household for purposes of this analysis.

An annual income of \$47,697.40 is 408.72% of the 2014 FPL for a one-person household (\$11,670.00). At 408.72% of the FPL, your household is over the maximum FPL of 400% allowed to be eligible for advance premium tax credits. Therefore, the Marketplace correctly determined you to be ineligible for advance premium tax credits based on the annual income you provided.

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 \$47,697.40 is 408.72% of the applicable FPL, the Marketplace correctly found you to be ineligible 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

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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 \$11,770.00 for a one-person household. Since \$47,697.40 is 405.25% 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.

Similarly, the relevant FPL for a one-person household on a monthly basis is \$981.00, and 138% of that amount equals \$1,354.00. Since you received \$1,680.00 gross in unemployment insurance benefits in July 2015, the month in which you submitted your completed application, your income exceeded the allowable monthly income limit. Therefore, you did not qualify for Medicaid as of the month of your application, that is, July 2015.

Since the July 7, 2015 notice of eligibility determination properly stated that, based on the information you provide, you were not eligible for APTC, cost-sharing reductions, or Medicaid, it is correct and AFFIRMED.

If, as you testified, your circumstances change at any time in the future, you can update your Marketplace application with your current information, including your current monthly income, and the Marketplace will redetermine your eligibility at that time.

In addition, if you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during a portion of 2015, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

## **Decision**

The July 7, 2015 notice of eligibility determination is AFFIRMED.

**Effective Date of this Decision:** October 28, 2015

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

You are not eligible for financial assistance through advance premium tax credits, cost-sharing reductions, or Medicaid.

You remain eligible to purchase a qualified health plan at full cost through the Marketplace.

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## **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 July 7, 2015 notice of eligibility determination is **AFFIRMED**.

You are not eligible for financial assistance through the Marketplace, including advance premium tax credits, cost-sharing reductions, and Medicaid.

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You remain eligible to purchase a qualified health plan at full cost through the Marketplace.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during a portion 2015, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for direction.

If your circumstances change at any time in the future, you can update your Marketplace application with your current information and the Marketplace will redetermine your eligibility at that time.

## **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:**

