



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

## Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003935

[REDACTED]

Dear [REDACTED],

On September 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 23, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

### 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).

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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 the NY State of Health are:

Did the Marketplace properly determine that you were eligible to receive up to \$0.00 monthly of advance premium tax credits effective July 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions effective July 1, 2015?

## Procedural History

On May 22, 2015, your Marketplace account was updated.

On May 23, 2015, the Marketplace issued an eligibility determination notice stating that you are eligible for up to \$0.00 of advance premium tax credits. The notice also found you no longer eligible for cost-sharing reductions and not eligible for Medicaid because your household income is over the allowable income limit for these programs.

On July 18, 2015, you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the amount of financial assistance you are receiving.

On September 25, 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 are applying for health insurance through the Marketplace for yourself only.
2. You testified that you plan on filing a 2015 federal income tax return with the tax status of married filing jointly and will not claim any dependents on that tax return.
3. According to your May 22, 2015 Marketplace application, your 2015 expected annual household income is \$47,394.96. Your husband expects to earn \$35,412.00 in earned income, and you expect to receive \$8,700.00 in Social Security Benefits and \$3,282.96 in pensions and annuities in 2015.
4. You testified that you are seeking to appeal the \$2,000.00 deductible that you were previously required to pay before the health plan would pay 100% of a given claim and now not being eligible for cost-sharing reductions.
5. You currently reside in Richmond County, NY.

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 is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2014 federal poverty level; (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 qualified health plan; 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 the 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).

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 (see 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 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).

#### 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 advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent 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)).

#### 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)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined you eligible for \$0.00 of advance premium tax credits.

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According to the record, you have a two-person tax household. You expect to file your 2015 federal income tax return with the tax status of married filing jointly and not claim any dependents on that return.

You reside in Richmond County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$372.40 per month.

The May 22, 2015 eligibility determination was based on an annual household income of \$47,394.96, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$47,394.96 equals 301.30% of the 2014 FPL for a two-person household. At 301.30% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$377.58 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$372.40 per month) minus your expected contribution (\$377.58 per month), which equals a negative amount and, therefore, is the equivalent of \$0.00 per month. Therefore, the Marketplace correctly computed your APTC to be \$0.00 per month.

The second issue is whether the Marketplace properly determined you not eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Cost-sharing reductions are intended to help with paying out-of-pocket costs, which means an individual will pay less when they go to the doctor or get a prescription, and their yearly deductible is smaller. In your case, when your eligibility was redetermined, your annual household income was 301.3% of the FPL for purposes for APTC and cost-sharing reductions. Therefore, you were correctly found not eligible for cost-sharing reductions.

Since the May 22, 2015, eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$0.00 per month and no longer eligible for cost-sharing reductions, it is correct and is **AFFIRMED**.

## **Decision**

The May 22, 2015 eligibility determination is **AFFIRMED**.

**Effective Date of this Decision:** November 09, 2015

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

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$0.00 per month.

You are no longer eligible for cost-sharing reductions.

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 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

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- By fax: 1-855-900-5557

## **Summary**

The May 22, 2015 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$0.00 per month.

You are no longer eligible for cost-sharing reductions.

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).



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

