



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

## Notice of Decision

Decision Date: November 16, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004088

[REDACTED]

Dear [REDACTED],

On October 22, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 29, 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: November 16, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004088



## Issue

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

Did the Marketplace properly determine that you were eligible to purchase a qualified health plan at full cost through NY State of Health and not eligible for financial assistance, effective September 1, 2015?

## Procedural History

On July 28, 2015, the Marketplace received your application for health insurance in 2015. That day, the Marketplace prepared a preliminary eligibility determination that you were eligible to purchase a qualified health plan at full cost, effective September 1, 2015, and not eligible for financial assistance.

That same day, you spoke with the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were not eligible for financial assistance.

On July 29, 2015, the Marketplace issued a notice of eligibility determination that was consistent with the July 28, 2015 preliminary determination.

On August 15, 2015, the Marketplace issued an enrollment notice confirming your selection of a Fidelis Care Bronze plan and your monthly premium responsibility of \$305.13. This notice also stated that your health coverage could start after you paid the first month's premium, which could be as early as September 1, 2015.

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On October 22, 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.

## **Findings of Fact**

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

- 1) According to your Marketplace application, you expect to file your 2015 taxes using 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 28, 2015 listed annual household income of \$55,000.00, consisting of earnings from January 1, 2015 to July 24, your last day of employment with your former employer, and severance pay of approximately \$4,000.00 that you received in August 2015. You testified that these amounts were correct.
- 3) You testified that you received unemployment insurance benefits of \$460.00 per week beginning on September 3, 2015, and then on September 10, 2015, September 17, 2015, and September 24, 2015, totaling \$1,840.00 that month.
- 4) You further testified that you received unemployment insurance benefits of \$460.00 on October 1, 2015 and October 8, 2015, and October 15, 2015, totaling \$1,380.00, and began earning income as of October 15, 2015.
- 5) You testified that your health insurance coverage through your new employer began October 15, 2015, and you will no longer need coverage with Fidelis Care Bronze as of November 1, 2015.
- 6) Your application states that you will not be taking any deductions on your 2015 tax return in calculating your adjusted gross income.
- 7) Your application states that you live in Nassau County, New York.
- 8) You testified that you are looking for financial assistance for the two months of September and October 2015 to cover some of the cost of the premium of \$305.13 you had to pay each of those months since your income situation was very different in those two months and it was difficult to pay the monthly premiums.

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).

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)).

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## 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)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for financial assistance through advance premium tax credits (APTC).

The application that was submitted on July 28, 2015 listed an annual household income of \$55,000.00 and the eligibility determination relied upon that information.

You are in a one-person household based on your tax filing status of Single in 2015 and claiming no dependents on your tax return.

An annual income of \$55,000.00 is 471.29% of the 2014 FPL for a one-person household. At 471.29% of the FPL, your income exceeds 400% of the applicable FPL, which is \$46,680.00. Therefore, the Marketplace correctly determined you to be ineligible for APTC.

The second issue is whether you were properly found ineligible for cost sharing reductions. In order to be eligible for cost sharing reductions, a person must first be eligible for APTC. Since the Marketplace correctly determined you were ineligible for APTC, it follows that it correctly determined that you were not 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 \$11,770.00 for a one-person household. Since \$55,000.00 is 467.29% 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.

Since the July 29, 2015 notice of eligibility determination properly stated that, based on the information you provided, you were ineligible for APTC, cost sharing reductions, and Medicaid, it is correct and is AFFIRMED.

Notwithstanding, you requested that your current monthly income situation be considered during the months of September 2015 and October 2015. Since APTC determinations are based on annual income, no further analysis is required.

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 must meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,354.00 per month. Since your income for September 2015 was at least \$1,840.00, you did not qualify for Medicaid on the basis of monthly income that month. Since your income for October 2015 was at least \$1,380.00, you did not qualify for Medicaid on the basis of monthly income for that month either. Therefore, no further action by the Marketplace is required at this time.

## **Decision**

The July 29, 2015 notice of eligibility determination is AFFIRMED.

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**Effective Date of this Decision:** November 16, 2015

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

You do not qualify 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 as of September 1, 2015, and your enrollment in a Fidelis Care Bronze plan remains in effect as of that date.

### **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 July 29, 2015 notice of eligibility determination is **AFFIRMED**.

You do not qualify 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 as of September 1, 2015, and your enrollment in a Fidelis Care Bronze plan remains in effect as of that date.

## **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:**

