



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

## Notice of Decision

Decision Date: December 16, 2015  
NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004299



Dear [REDACTED],

On November 6, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 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 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: December 16, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004299



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you were newly eligible to receive up to \$0.00 per month in advance premium tax credit, effective September 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

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

## Procedural History

On July 1, 2015, the Marketplace received your initial application for financial assistance and health insurance.

That same day an eligibility determination was made finding you eligible to purchase a qualified health plan at full cost through the NY State of Health effective August 1, 2015. The notice further stated that you did not qualify for Medicaid, Child Health Plus, or to receive advance premium tax credit because the income you provided on your application was over \$62,920.00.

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On August 12, 2015, the Marketplace received your updated application for health insurance.

That same day, the Marketplace determined you newly eligible to receive advance premium tax credits in the amount of \$0.00, ineligible to receive cost-sharing reductions, and ineligible for Medicaid. The eligibility was effective September 1, 2015. This was based upon your reported household income of \$56,217.00.

Also, on August 12, 2015, you contacted the Marketplace's account review unit and appealed the August 12, 2015 eligibility determination notice insofar as the amount of financial assistance you were deemed eligible for. You would like to be provided a higher amount of advance premium tax credits or be considered eligible for Medicaid. You stated that if your income alone was considered without your spouse that you would qualify for Medicaid.

A notice of telephone hearing was issued on October 20, 2015 for a telephone hearing set to take place on November 6, 2015 at 10:00 am.

On November 6, 2015, you had a telephone hearing with a Hearing Officer from the NY State of Health Appeals Unit. The record was left open 15 days for you to provide income documentation in the form of four weeks of pay stubs for the month of August, 2015. The Appeals Unit did not receive the requested documentation by the deadline provided.

## **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 married filing jointly. You will not be claiming any dependents on that return.
- 2) You are seeking financial assistance for insurance for yourself.
- 3) The application that was submitted on August 12, 2015 listed a projected annual household income of \$56,217.00.
- 4) This income consists of \$14,617.00 for yourself, and \$41,600.00 from your spouse.
- 5) At the hearing you testified that this amount was accurate.
- 6) Your testimony supports your attested application that you will not be taking any tax deductions for 2015.

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7) The Appeals Unit did not receive the requested supporting documentation by the deadline provided.

8) Your application states that you live 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 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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

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For annual household income in the range of at least 300% but less than 400 % of the 2014 FPL, the expected contribution is between 9.56% and 9.56 % of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

### 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)).

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 \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

### 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)

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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)).

Generally, gross income does not include “amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer)” (26 USC § 104(a)(3)).

*Married couples.* In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return under section 6013 of the Code or whether one spouse expects to be claimed as a tax dependent by the other spouse. (42 CFR § 435.603 (f)(4)).

### 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 eligible for an advance premium tax credit (APTC) of up to \$0.00 per month.

The application that was submitted on August 12, 2015 listed an annual household income of \$56,217.00 and the eligibility determination relied upon that information. You testified and your application reflects that your husband expects to receive \$41,600.00 from his employer. The record also supports that you earn \$14,617.00 a year from your employer.

You are in a two-person household, and are only seeking insurance for yourself. You testified that you expect to file your 2015 income taxes as married filing jointly and will claim no dependents.

You reside in Queens County, New York, where the second lowest cost silver plan available for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$56,217.00 is 357.39% of the 2014 Federal Poverty Level (FPL) for a two-person household. At 357.39% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$447.86 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 (\$371.75 per month) minus your expected contribution (\$447.86 per month), would put you outside of the range acceptable for receiving advance premium tax credits. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$0.00 per month in advance premium tax credits.

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 \$56,217.00 is 357.39% 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 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 \$15,930.00 for a two-person household.

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Since \$56,217.00 is 352.90% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information you attested to in your application and testified to during your hearing.

Since the March 18, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC in the amount of \$0.00, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

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

## **Decision**

The August 12, 2015 eligibility determination notice is AFFIRMED.

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

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

You remain eligible for up to \$0.00 in APTC.

You are ineligible for cost-sharing reductions.

You are ineligible for Medicaid.

## **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.

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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 August 12, 2015 eligibility determination notice is **AFFIRMED**.

You remain eligible for up to \$0.00 in APTC.

You are ineligible for cost-sharing reductions.

You are ineligible for Medicaid.

### **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:**

