



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: AP000000004790

[REDACTED]

Dear [REDACTED]

On December 7, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 24, 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

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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 \$219.00 per month in advance premium tax credit and, if you select a silver-level qualified health plan, eligible for cost-sharing reductions, effective November 1, 2015?

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

## Procedural History

On September 24, 2015, the Marketplace issued a notice of eligibility redetermination based on your September 23, 2015 updated application. The notice stated in part that you were eligible to receive up to \$219.00 per month in advance premium tax credits (APTC) and, if you select a silver-level qualified health plan, eligible for cost-sharing reductions, effective November 1, 2015. The notice further stated that you were over-income for Medicaid and, therefore, not eligible for this program.

On September 24, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the eligibility redetermination insofar as you were not eligible for Medicaid and could not afford to pay monthly premiums for health insurance.

On December 7, 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 finding of facts:

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of Single. You will claim your son as a dependent on that tax return.
- 2) You testified that you are appealing your eligibility only.
- 3) The application that was submitted on September 23, 2015 listed annual household income of \$30,376.70 in earnings from your employment. 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 and your son live in Kings County, New York.
- 6) You testified that you have basic monthly living expenses, such as rent, utilities, and child care, that your income covers and you cannot also afford to pay a monthly premium for health insurance.

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).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% 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)).

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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).

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 eligible for an APTC of up to \$219.00 per month.

Although you testified that you have living expenses that make it unaffordable for you to pay monthly premiums for health insurance, such expenses are not allowed when calculating your MAGI-based income for purposes of determining the level of APTC to which you are entitled.

The application that was submitted on September 23, 2015 listed an annual household income of \$30,376.70 and the eligibility determination relied upon that information.

You expect to file your 2015 income taxes as Single and will claim your son as a dependent on that tax return. Therefore, you are in a two-person household for purposes of this analysis.

You reside in Kings 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 \$30,376.70 is 193.11% of the 2014 FPL for a two-person household. At 193.11% of the FPL, the expected contribution to the cost of the health insurance premium is 6.02% of income, or \$152.39 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 (\$152.39 per month), which equals \$219.36 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$219.00 per month in APTC.

The second issue is whether you were properly found eligible 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 \$30,376.70 is 193.11% of the applicable FPL, the Marketplace correctly found you to be 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 \$15,930.00 for a two-person household. Since \$30,376.70 is 190.69% 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.

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According to your Marketplace account, you are not currently covered under Medicaid such that your eligibility should be calculated based on monthly income. In this regard, the allowable maximum monthly income for a two-person household at 138% of the relevant FPL is \$1,832.00. Your monthly income of \$30,376.70 computes to \$2,531.39 per month, which exceeds the allowable maximum monthly limit to be eligible for Medicaid. Therefore, you are also ineligible for Medicaid on an expected monthly basis.

Since the September 24, 2015 notice of eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$219.00 per month in APTC, eligible 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 direction.

## **Decision**

The September 24, 2105 notice of 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 \$219.00 per month in advanced premium tax credit and eligible 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.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to

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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 September 24, 2105 notice of eligibility determination notice is **AFFIRMED**.

You remain eligible for up to \$219.00 per month in advanced premium tax credit and eligible for cost-sharing reductions.

You are ineligible for Medicaid.

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 direction.

## **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:**

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