



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

## Notice of Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004912

[REDACTED]

Dear [REDACTED],

On December 18, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 13, 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]  
Appeal Identification Number: AP000000004912



## Issues

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

Did the Marketplace properly determine that you and your son are eligible to receive up to \$545.00 monthly of advance premium tax credits as of August 13, 2015?

Did the Marketplace properly determine that you and your son are eligible for cost-sharing reductions, if you enroll in a silver-level qualified health plan, as of August 13, 2015?

Did the Marketplace properly determine that you and your son are not eligible for Medicaid as of August 13, 2015?

## Procedural History

On August 13, 2015 the Marketplace issued an eligibility determination notice stating that you and your son are eligible to receive up to \$545.00 monthly of advance premium tax credits and cost-sharing reductions, if you enroll in a silver-level qualified health plan. The notice stated that you and your son are not eligible for Medicaid because the household income you provided is over the allowable income limit.

On October 13, 2015 you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible for through the Marketplace.

On December 18, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing. The record is now complete and closed.

## **Findings of Fact**

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

1. You are applying for health insurance through the Marketplace for yourself and your 29-year-old son.
2. According to your August 12, 2015 Marketplace application, you plan on filing a 2015 federal income tax return with the tax status of Head of Household (with qualifying individual) and will claim one dependent on that tax return.
3. According to your August 12, 2015 Marketplace application, your 2015 expected annual household income is \$24,576.00.
4. According to your August 12, 2015 Marketplace application, you receive \$2,048.00 per month in Social Security Disability Income.
5. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.
6. You currently reside in Sullivan 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 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

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 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% 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)).

#### 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).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size

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(42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

### 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 and your son are eligible for up to \$545.00 monthly of APTC.

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 Head of Household (with qualifying individual) and will claim one dependent on that return.

You reside in Sullivan County, New York where the second lowest cost silver plan that is available through the Marketplace for a primary subscriber with one dependent costs \$633.02 per month.

The August 13, 2015 eligibility determination was based on an annual household income of \$24,576.00, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$24,576.00 equals 156.24% of the 2014 FPL for a two-person household. At 156.24% of the FPL, the expected contribution to the cost of the health insurance premium is 4.31% of income, or \$88.27 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$633.02 per month) minus your expected contribution (\$88.27 per month), which equals \$544.75 per month. Therefore, the Marketplace correctly computed your APTC to be \$545.00 per month.

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The second issue is whether the Marketplace properly determined you and your son are 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. Since your annual household income is 156.24% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined that you and your son are not eligible 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 \$24,576.00 is 154.27% of the 2015 FPL, the Marketplace properly found you and your son to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

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 would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,832.00 per month. According to your August 12, 2015, Marketplace application, you are receiving \$2,048.00 monthly in Social Security Disability Income. Therefore, your August 2015 household income was approximately \$2,048.00 and you did not qualify for Medicaid.

Since the August 13, 2015 eligibility determination properly stated that you and your son are eligible for APTC of up to \$545.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

## **Decision**

The August 13, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** January 08, 2016

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

This decision does not change your eligibility.

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).

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  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

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## **Summary**

The August 13, 2015 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

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:**

