



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

## Notice of Decision

Decision Date: January 22, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004952

[REDACTED]

Dear [REDACTED],

On January 7, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 6, 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

Decision Date: January 22, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004952



## Issues

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

Did the Marketplace properly determine that you are eligible to receive up to \$248.00 monthly of advance premium tax credits?

Did the Marketplace properly determine that you are eligible for cost-sharing reductions, if you enroll in a silver-level qualified health plan?

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

## Procedural History

On October 6, 2015 the Marketplace issued an eligibility determination that you are eligible for up to \$248.00 of advance premium tax credits and cost-sharing reductions, if you enroll in a silver-level qualified health plan. The notice also stated that you are not eligible for Medicaid because the household income you provided is over the allowable income limit.

On October 18, 2015 you uploaded income documentation to your Marketplace account.

On October 19, 2015 you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible to receive.

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On January 7, 2016 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing. The record was left open until January 8, 2016 to allow you to submit additional income documentation.

On January 8, 2016 you uploaded eight one-page Earnings Statements from [REDACTED]. These Earnings Statements have been marked as "Appellant Exhibit A" and been made part of the record. 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.
2. You testified that you plan on filing a 2015 federal income tax return with the tax status of single and will not claim any dependents on that tax return.
3. According to your October 5, 2015 Marketplace application, your 2015 expected annual household income is \$23,400.00.
4. You testified that you are currently employed at [REDACTED] [REDACTED] and your income fluctuates on a weekly basis.
5. On October 18, 2015 you uploaded three Earnings Statements from [REDACTED] to your Marketplace account. You were issued:
  - (a) \$589.19 in gross pay on October 2, 2015;
  - (b) \$542.84 in gross pay on October 9, 2015;
  - (c) \$539.72 in gross pay on October 16, 2015.
6. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.
7. You currently reside in Queens County, NY.
8. On January 8, 2016 you uploaded eight Earnings Statements from [REDACTED] to your Marketplace account. You were issued:
  - (a) \$504.79 in gross pay on November 13, 2015;
  - (b) \$578.45 in gross pay on November 20, 2015;
  - (c) \$651.11 in gross pay on November 27, 2015;
  - (d) \$311.87 in gross pay on December 4, 2015;
  - (e) \$526.97 in gross pay on December 11, 2015;
  - (f) \$583.14 in gross pay on December 18, 2015;
  - (g) \$520.76 in gross pay on December 24, 2015;

(h) \$394.49 in gross pay on December 31, 2015.  
(Appellant Exhibit A p. 1-8).

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 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.30% and 8.05% 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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

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 income tax form). 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. Those who take more tax credit in advance than

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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 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 \$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).

### 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 up to \$248.00 monthly of APTC.

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

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

The October 6, 2015 eligibility determination was based on an annual household income of \$23,400.00, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$23,400.00 equals 200.51% of the 2014 FPL for a one-person household. At 200.51% of the FPL, the expected contribution to the cost of the health insurance premium is 6.36% of income, or \$123.98 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$371.75 per month) minus your expected contribution (\$123.98 per month), which equals \$247.77 per month. Therefore, the Marketplace correctly computed your APTC to be \$248.00 per month.

The second issue is whether the Marketplace properly determined you 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 200.51% 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 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.

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On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since \$23,400.00 is 198.81% of the 2015 FPL, the Marketplace properly found you 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 \$1,354.00 per month.

On October 18, 2015 you uploaded three Earnings Statements from [REDACTED] to your Marketplace account. These statements show that you earned at least \$1,671.75 in October 2015. Therefore, your October 2015 household income exceeded the income limit to be eligible for Medicaid.

Since the October 6, 2015 eligibility determination properly stated that you are eligible for APTC of up to \$248.00 per month, eligible for cost-sharing reductions, and not eligible for Medicaid, it is correct and is AFFIRMED.

However, at the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year.

If you should have been entitled to a greater advance premium tax credit for 2015 than what you actually would have been entitled to, there may be compensation for this reflected on your 2015 income tax return.

You credibly testified that your income fluctuates on a weekly basis. On January 8, 2016 you uploaded eight Earnings Statements from [REDACTED] to your Marketplace account. The statements show that you earned at least \$1,734.35 in gross pay in November 2015 and \$2,337.23 in gross pay in December 2015.

Since the income documentation you provided show that your November and December 2015 monthly income exceeded the \$1,354.00 income threshold to be eligible for Medicaid, you are not eligible for Medicaid during those months.

## **Decision**

The October 6, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** January 22, 2016

## **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 \$248.00 per month and cost-sharing reductions, if you enroll in a silver-level qualified health plan.

You remain not eligible to enroll in Medicaid.

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.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

## **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

## **Summary**

The October 6, 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 \$248.00 per month and cost-sharing reductions, if you enroll in a silver-level qualified health plan.

You remain not eligible to enroll in Medicaid.

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.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

## **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:**

