



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

## Notice of Decision

Decision Date: April 11, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005644

[REDACTED]

Dear [REDACTED],

On March 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 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).

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005644



## Issues

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

Did the Marketplace properly determine that you were not eligible to receive advance payments of the premium tax credit (APTC), effective January 1, 2016?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions, effective January 1, 2016?

## Procedural History

On December 12, 2015 the Marketplace issued an eligibility determination notice stating that you were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2016. The notice further stated that you were not eligible to receive APTC because your income was over the allowable income limit for that program. You were not eligible for cost-sharing reductions because you were not eligible for an APTC.

On December 21, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for financial assistance.

On March 1, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide income documentation. That documentation

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was received on March 13, 2016 and incorporated into the record (Appellant's Exhibit 1 Pg. 1-31). The record is now closed.

## **Findings of Fact**

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

- 1) You testified that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) The application that was submitted on December 11, 2015 listed annual household income of \$55,000.40, consisting of income you earn from your employment. You testified that this amount was correct.
- 3) You further testified that you receive your income weekly and it is a steady amount.
- 4) The record supports that based upon your submitted documentation your gross earnings are \$1,057.70 weekly (Appellant's Exhibit 1, pg. 20).
- 5) Your application states that you will not be taking any deductions on your 2016 tax return.
- 6) You testified that based upon your current living expenses and expenses incurred as a result of an IRS audit, as well as treatment for a car accident you experienced, you have been unable to afford health insurance.
- 7) The Appeals unit received your supporting documentation in the form of a 31 page fax submitted on March 13, 2016 and uploaded to your account on March 23, 2016 (Appellant's Exhibit 1).
- 8) Your application states that you live in Suffolk County.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are 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 federal poverty level (FPL), (2) expects to file a tax return and claim a personal

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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 2016 is set by federal law at 2.03% to 9.66% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

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 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

### Cost-Sharing Reductions

Cost-sharing reductions 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)).

### 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 deduction 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 not eligible to receive APTC.

The application that was submitted on December 11, 2015, listed an annual household income of \$55,000.40 and the eligibility determination relied upon that information. During the hearing, you testified that the amount you provided in your application was correct. However, you testified that based upon your current living expenses and expenses incurred as a result of an IRS audit, as well as treatment for a car accident you experienced, you have been unable to afford health insurance.

Since the Internal Revenue Service rules do not allow any of the expenses that you mentioned to be deducted from your adjusted gross income, they cannot be deducted when the Marketplace computes your modified adjusted gross income for APTC purposes. Therefore, the Marketplace correctly determined your household income to be \$55,000.40.

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You are in a one-person household. You expect to file you 2016 income taxes as married filing jointly and will claim your son as a dependent on that tax return.

An annual income of \$55,000.40 is 467.29% of the 2015 FPL for a one-person household. In order to receive advance premium tax credits an individual must expect to have a household income between 138% and 400% of the applicable poverty level.

Since your annual household income of \$55,000.40 is greater than 400% of the FPL, the Marketplace correctly found you ineligible for 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 is eligible for APTC and has a household income no greater than 250% of the FPL. Since you were not eligible for APTC and you have a household income that is greater than the applicable FPL, the Marketplace correctly found you to be ineligible for cost-sharing reductions.

Since the December 12, 2015 eligibility determination notice properly stated that, based on the information you provided you were eligible to purchase a qualified health plan at full cost and that you were not eligible for an advance premium tax credit, and not eligible for cost-sharing reductions, 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 2016, you can check the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

## **Decision**

The December 12, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** April 11, 2016

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

You remain eligible to purchase a health plan at full cost effective January 1, 2016.

## **If You Disagree with this Decision (Appeal Rights)**

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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 December 12, 2015 eligibility determination notice is AFFIRMED.

You remain eligible to purchase a health plan at full cost effective January 1, 2016.

### **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

