



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

### Notice of Decision

Decision Date: July 28, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000607

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On June 2, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s April 24, 2014 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 notice.

### Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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[REDACTED]

### Issue

The issue presented for review by the Appeals Unit of the NY State of Health is:

Did the Marketplace properly determine [REDACTED] collectively eligible for \$471.00 monthly of advance premium tax credits (APTC) as of April 24, 2014?

### Procedural History

The Marketplace received your application on March 3, 2014.

That same day, the Marketplace issued an eligibility determination in your case. It said that you and your spouse, [REDACTED], are collectively eligible for up to \$455.00 monthly of advance premium tax credit (APTC) and, provided you select a silver-level plan, cost-sharing reductions (CSR). This determination was based upon an expected household income during 2014 of \$47,684.00, which consisted of your earnings of \$31,460.00 and your spouse’s anticipated 2014 workers’ compensation benefits of \$16,224.00.

On March 29, 2014, you and your spouse, with the assistance of a Fidelis Care representative, enrolled in the “Fidelis Care NY – NYS Catholic Health Plan.”

On April 16, 2014, you and your spouse cancelled enrollment in the “Fidelis Care NY – NYS Catholic Health Plan.”

On April 22, 2014, you revised your application to indicate expected 2014 income of \$30,225.00 for yourself and \$16,248.95 for your spouse. This resulted in an expected 2014 household income of \$46,473.96.

That same day, relying upon your expected household income of \$46,473.96, the Marketplace prepared a preliminary redetermination. It said you were eligible and that your spouse was temporarily eligible to receive up to \$471.00 monthly of advance premium tax credit (APTC) and, provided you were enrolled in a silver-level plan, cost-sharing reductions (CSR).

On April 25, 2014, you spoke with Marketplace Customer Service unit and appealed the April 24, 2014 preliminary redetermination.

On May 1, 2014, the Marketplace issued a notice of eligibility determination consistent with the April 24, 2014 preliminary determination. Additionally, it advised you that you and your spouse "do not qualify to select a health plan outside of the open enrollment period."

On June 2, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for 15 days, until June 17, 2014, for the sole purpose of giving you an opportunity to submit additional evidence relating to your spouse's claim for disability in connection with his workers' compensation benefits inasmuch this evidence suggests a decrease in his expected income for 2014.

The Marketplace did not receive any additional evidence by June 17, 2014, so the record was closed.

## **Findings of Fact**

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

- 1) You are married to [REDACTED] (NYSOH Exhibit A, pg. 1; Appellant Testimony 6/2/14).
- 2) You expect to file a U.S. Income Tax return for the 2014 tax year, file as "married filing jointly" with your spouse, and claim your son, [REDACTED], as your only dependent (NYSOH Exhibit A, pg. 1; Appellant's Testimony 6/2/14).
- 3) You work for [REDACTED], and expect to earn \$2,518.75 per month, or \$30,225.00 for the 2014 tax year (NYSOH Exhibit A, pg. 2; Appellant Testimony 6/2/14).

- 4) Your husband expects to receive \$312.48 weekly, or \$16,248.96 for the 2014 tax year in Worker's Compensation benefits due to a job-related injury (NYSOH Exhibit A, pg. 3; Appellant's Testimony 6/2/14).
- 5) You and your family reside in Westchester County, New York (NYSOH Exhibit A, pg. 2; Appellant Testimony 6/2/14).
- 6) You testified that you were seeking health insurance coverage through the Marketplace for yourself and your spouse (Appellant Testimony 6/2/14).
- 7) You also testified that you cancelled coverage under the "Fidelis Care NY – NYS Catholic Health Plan" for yourself and your spouse on April 16, 2014, because you decided that you could not afford the insurance plan even with the APTC.

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

## **Applicable Law and Regulations**

Currently, a person may qualify for advance premium tax credit (APTC) if the household income is between 138% and 400% of the 2013 federal poverty level (FPL) (45 CFR § 155.305(f)). The 2013 FPL for a household of three people is \$19,530.00, so a person in that household may qualify for APTC if the household income is between \$26,951.40 (138.00% FPL) and \$78,120.00 (400.00% FPL).

A taxpayer's household income includes the modified adjusted gross income of all the individuals in the taxpayer's family who are required to file a return for the taxable year (26 CFR § 1-36B-1(e)(2)).

The maximum amount of APTC that can be authorized equals:

- 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*

- the taxpayer's expected contribution amount

(26 USC § 36B; 26 USC § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is

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expected to spend on health insurance premiums. The expected contribution towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on household's income. For household income in the range of at least 200% but less than 250% of the 2013 FPL, the expected contribution is from 6.30 to 8.05% off the household income (26 USC § 36B(b)(3)(A)).

## **Legal Analysis**

Your household size for APTC purposes is three people (yourself, your spouse, and your son), and you expect to file as "married filing jointly" on your tax return for 2014, claiming your son as a dependent.

You credibly testified that during 2014 you expect to earn \$30,225.00 and your spouse expects to receive \$16,248.96 in workers' compensation benefits. This equals an expected household income of \$46,473.96. For a three-person household, an income of \$46,473.96 equals 237.96% of the FPL.

You further credibly testified that when you said on your Marketplace application that your spouse's expected 2014 income was \$0.00 it was a mistake and you immediately corrected it.

The question here is whether the Marketplace properly determined that the maximum amount of your advance premium tax credit (APTC) was \$471.00 per month.

You reside in Westchester County, where the second-lowest cost silver plan available for a couple through the Marketplace costs \$766.35 per month.

Your expected income for 2014 is \$46,473.96, which is 237.96% of the 2013 FPL for a three-person household. At 237.96% of the FPL, the expected contribution to the cost of the health insurance premium is 7.63% of income, or \$295.50 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$766.35 per month) minus your expected contribution (\$295.50 per month), which equals \$470.85 per month. Therefore the Marketplace correctly computed your APTC to be \$471.00 per month.

Since the determination on the advance premium tax credit was correct, and since this was your only objection to it, the eligibility determination must be affirmed.

## **Decision**

The April 24, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** July 28, 2014

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

You and your husband are still eligible for up to \$471.00 monthly of advance premium tax credit (APTC) and, if you select a silver-level plan, cost sharing reductions (CSR).

However, you cancelled your health insurance on April 16, 2014, and the open enrollment period has ended.

If you want to enroll in another health insurance plan before the next open enrollment period, which begins on November 15, 2014, you must qualify for a special enrollment period.

## **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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

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 for assistance.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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## **Summary**

The April 24, 2014 eligibility determination is AFFIRMED.

You and your husband are still eligible for up to \$471.00 monthly of advance premium tax credit (APTC) and, if you select a silver-level plan, cost sharing reductions (CSR).

However, you cancelled your health insurance on April 16, 2014, and the open enrollment period has ended.

If you want to enroll in another health insurance plan before the next open enrollment period, which begins on November 15, 2014, you must qualify for a special enrollment period.

## **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:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]