



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

## Notice of Decision

Decision Date: March 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001124

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On January 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 3, 2014 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 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: AP000000001124

[REDACTED]  
[REDACTED]  
[REDACTED]

## 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 an advance premium tax credit of up to \$0.00 per month as of December 3, 2014?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions as of December 3, 2014?

## Procedural History

The Marketplace received your application for health insurance on December 2, 2014, which was modified the same day. The Marketplace prepared preliminary eligibility determinations that each found you eligible for \$0.00 per month in advance premium tax credit (APTC).

That same day, you spoke with the Marketplace's Account Review Unit and appealed the preliminary eligibility determinations.

On December 3, 2014, the Marketplace issued an eligibility determination notice consistent with the December 2, 2014 preliminary eligibility determinations; it stated that you were eligible to receive \$0.00 per month in APTC. The notice further stated that you were not eligible for cost-sharing reductions (CSR) because your income was over the allowable limit for that program.

On January 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, you verbally authorized your certified application counselor, [REDACTED], to act as an authorized

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representative on your behalf. [REDACTED] was sworn in and assisted you in your testimony during the hearing. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) You testified that you plan on filing your 2015 tax return as married filing jointly with your spouse and that you will claim no dependents on that tax return.
- 2) You testified that you do not plan on taking any deductions on your 2015 tax return.
- 3) Your December 2, 2014 application lists an expected annual household income of \$42,586.80. You testified that this amount is accurate.
- 4) You testified for the 2015 tax year you plan on receiving \$10,336.56 from [REDACTED], and \$10,504.32 from [REDACTED].
- 5) You testified for the 2015 tax year your spouse plans on receiving \$1,836.00 from a [REDACTED], \$3,233.04 from [REDACTED], \$15,105.60 from Social Security, and \$1,571.28 from Veteran's Disability.
- 6) You testified that you do not know if your husband's Social Security benefits will increase because of a cost-of-living adjustment.
- 7) You testified that you reside in Monroe County, New York.
- 8) You are the only member of your household seeking insurance through the Marketplace at this time.

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 2013 federal poverty level (FPL), (2)

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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 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).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

### 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 plan year coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$0.00 per month.

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In the application that was submitted on December 2, 2014, you attested to an expected yearly income of \$42,586.80, and the eligibility determination relied upon that information. You testified that this income was correct.

According to the record there are two-people in your tax household, you and your spouse.

You reside in Monroe County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$305.04 per month.

An annual income of \$42,586.80 is 270.74% of the 2014 federal poverty level (FPL) for a two-person household. At 270.74% of the FPL, the expected contribution to the cost of the health insurance premium is 8.71% of income, or \$309.11 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 (\$305.04 per month) minus your expected contribution (\$309.11 per month). Since your expected contribution of \$309.11 per month for the 2015 tax year exceeds the monthly premium for the second lowest cost silver plan in your county, you would be eligible for \$0.00 per month in APTC.

The second issue is whether the Marketplace properly determined that you were ineligible 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 \$42,586.80 is 270.74% of the 2014 FPL, the Marketplace correctly found you ineligible for CSR.

Since the December 3, 2014 eligibility determination properly stated that, based on the information you provided on your initial application and testified to at your hearing, you were eligible for APTC of up to \$0.00 per month and not eligible for cost-sharing reductions, it is AFFIRMED.

## **Decision**

The December 3, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** March 10, 2015

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

You remain eligible for \$0.00 per month in advance premium tax credit.

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 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  
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- By fax: 1-855-900-5557

## **Summary**

The December 3, 2014 eligibility determination is **AFFIRMED**.

You remain eligible for \$0.00 per month in advance premium tax credit.

## **Legal Authority**

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

[REDACTED]  
[REDACTED]  
[REDACTED]

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