



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

## Notice of Decision

Decision Date: April 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001135

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On January 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 4, 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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Appeal Identification Number: AP000000001135

[REDACTED]  
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**Issue**

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

Did the Marketplace properly determine that you were eligible for up to \$0.00 per month in advance premium tax credit effective January 1, 2015?

**Procedural History**

On December 3, 2014, the Marketplace made a preliminary determination that you were eligible for up to \$0.00 per month in advance premium tax credit based on a household income of \$59,600.00. It also stated that your spouse and daughter were eligible for Medicaid effective January 1, 2015.

On the same day, you spoke with the Marketplace’s Accounts Review Unit and appealed the preliminary determination insofar as it limited your advance premium tax credit to \$0.00.

On December 4, 2014, the Marketplace issued a notice of eligibility redetermination on the December 3, 2014 application. It stated that you were eligible for \$0.00 per month in advance premium tax credit based on a household income of \$59,600.00. It also stated that your spouse was no longer eligible for Medicaid but would continue to receive Medicaid coverage. It also stated that your daughter remained eligible for Medicaid effective January 1, 2015.

The Marketplace redetermined your eligibility and issued a notice of eligibility determination on December 9, 2014. It stated that, effective January 1, 2015, you and your spouse were eligible to share up to \$310.00 per month in advance

premium tax credit and that your daughter would continue to receive Medicaid coverage.

On January 23, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. 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 are married and live with your spouse and infant daughter.
- 2) You testified that you expect to file your 2015 tax return jointly with your spouse and you expect to claim your daughter as a dependent.
- 3) According to the February 28, 2014 notice of eligibility determination your spouse was given conditional Medicaid coverage.
- 4) The December 4, 2014 notice of eligibility determination stated that, effective January 1, 2015, you were eligible for \$0.00 per month of advance premium tax credit and your spouse remained eligible for Medicaid coverage. That determination is the basis of the appeal.
- 5) On December 9, 2014, the Marketplace issued a notice of eligibility determination stating that, effective January 1, 2015, you and your spouse were eligible to share an advance premium tax credit of up to \$310.00 per month. This determination was not appealed.
- 6) On December 11, 2014, the Marketplace issued a notice confirming your enrollment for 2015. You and your spouse selected a bronze-level plan costing \$616.29 per month, and were entitled to advance premium tax credit of \$310.00 per month, resulting in a total premium cost of \$306.29 per month.
- 7) On December 27, 2014, the Marketplace issued a disenrollment notice stating that your spouse's Medicaid coverage would be discontinued as of December 31, 2014. This notice was not appealed.

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

## **Applicable Law and Regulations**

An advance premium tax credit (APTC) is available to a tax filer who expects to (1) have a household income of at least 100% but not more than 400% of the federal poverty level (FPL) and (2) claim a personal exemption deduction on his or her tax return for an applicant who is eligible to enroll in a qualified health plan and can obtain minimum essential coverage only through the individual Marketplace (45 CFR § 155.305(f); 26 CFR 1.36B-2).

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 return). Those who take less tax credit in advance than they claim on the tax return may have their taxes reduced or get the rest of the credit as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

## **Legal Analysis**

You appealed the December 4, 2014 Marketplace decision to approve a maximum advance premium tax credit of \$0.00 for you, effective January 1, 2015. This determination was not put into effect because, before it was implemented, it was superseded by the December 9, 2014 notice of eligibility determination stating that you and your spouse were entitled to share an advance premium tax credit of \$310.00 per month. This later determination has not been appealed.

On December 27, 2014, the Marketplace confirmed that your spouse's Medicaid would end on December 31, 2014. The December 27, 2014 and December 9, 2014 notices are fully consistent, because your spouse cannot receive Medicaid and an advance premium tax credit simultaneously. The December 27, 2014 notice also has not been appealed.

According to information in your Marketplace account, you and your spouse selected a qualified health plan in the Marketplace and have been enrolled in it since January 1, 2015.

Since the December 4, 2014 notice of eligibility was superseded before it could be implemented, your appeal of that notice of eligibility is moot.

Since the December 9, 2014 and December 27, 2014 notices have not been appealed, they are not reviewed here.

## **Decision**

The December 4, 2014 notice of eligibility was superseded before it could be implemented, and the appeal against it is moot.

**Effective Date of this Decision:** April 15, 2015

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

This decision does not change your eligibility.

You and your spouse remain eligible to enroll in a qualified health plan with an advance premium tax credit of up to \$310.00 per month, as stated in the December 9, 2014 notice of eligibility determination.

### **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 December 4, 2014 notice of eligibility was superseded before it could be implemented, and the appeal against it is moot.

This decision does not change your eligibility.

You and your spouse remain eligible to enroll in a qualified health plan with an advance premium tax credit of up to \$310.00 per month, as stated in the December 9, 2014 notice of eligibility determination.

## **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]