



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

## Notice of Decision

Decision Date: May 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001385

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 31, 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: AP000000001385

[REDACTED]  
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## 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 (APTC) of \$0.00 per month as of December 30, 2014?

Did the Marketplace properly determine that you were not eligible to receive cost-sharing reductions as of December 30, 2014?

## Procedural History

The Marketplace received your application for health insurance on December 30, 2014. In it you attested to an expected yearly income of \$49,377.00.

That same day, the Marketplace a preliminary determination that you were eligible to receive an advance premium tax credit (APTC) of \$0.00 and that you were not eligible for cost-sharing reductions (CSR) or Medicaid.

On December 30, 2014 and again on January 7, 2015, you spoke with the Marketplace's Account Review Unit to appeal the December 30, 2014 preliminary determination insofar as it found you eligible for an APTC of up to \$0.00 per month.

On December 31, 2014, the Marketplace issued a notice of eligibility redetermination on the December 30, 2014 application. It stated that you were eligible to receive \$0.00 per month in APTC but ineligible for CSR or Medicaid.

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On February 9, 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 testified that you are divorced and live with your son, who is a minor.
- 2) You testified that you are seeking health insurance coverage only for yourself.
- 3) You testified that, and your application indicates, that you expect to file as "head of household" on your U.S. Income Tax return for the 2015 tax year and claim your son as your sole dependent.
- 4) You testified that you live in Westchester County, New York.
- 5) In your December 30, 2014 application, you attested to an expected annual income during 2015 of \$49,377.00. You testified that this figure was accurate when you submitted your application, and remained accurate as of the date of the hearing.
- 6) You testified that the health plan you were enrolled in during the 2014 plan is now unaffordable to you, due in part to your monthly living expenses, decreased eligibility for tax credits as compared to the previous year, and the premium you pay for your son's health insurance.

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 applicable federal poverty level (FPL), (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 QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual

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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-3(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 300% but less than 400% of the 2014 FPL, the expected contribution is 9.56% of the household income (26 CFR § 1.36B-3(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 to receive \$0.00 per month in advance premium tax credit (APTC).

In the application that was submitted on December 30, 2014, you attested to an expected yearly income of \$49,377.00, and the eligibility determination relied on that information.

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According to the record, you are in a two-person tax household. You expect to file a 2015 U.S. Income Tax return, file as “head of household,” and claim you son as your sole dependent.

You reside in Westchester County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$372.40 per month.

An annual household income of \$49,377.00 is 313.90% of the 2014 federal poverty level (FPL) for a two-person household. At 313.90% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$393.37 per month.

The maximum amount of APTC that can be awarded generally equals the cost of the second lowest cost silver plan in your county (\$372.40 per month) minus your expected contribution (\$393.37 per month). In this case, your expected contribution is greater than the cost of the second lowest cost silver plan in your county, and therefore the Marketplace correctly found you eligible an APTC of \$0.00 per month.

The final issue is whether the Marketplace properly determined that you were not eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 313.90% of the 2014 FPL, you were correctly found to be not eligible for cost-sharing reductions.

Since the December 31, 2014 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for an APTC of \$0.00 per month and ineligible for cost-sharing reductions, it is correct and is AFFIRMED.

## **Decision**

The December 31, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** May 14, 2015

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

You continue to be eligible to receive up to \$0.00 per month of advance premium tax credit.

You are not eligible for cost-sharing reductions or Medicaid.

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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## **Summary**

The December 31, 2014 eligibility determination is **AFFIRMED**.

You continue to be eligible to receive up to \$0.00 per month of advance premium tax credit.

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You are not eligible for cost-sharing reductions or Medicaid.

## **Legal Authority**

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

[REDACTED]  
[REDACTED]  
[REDACTED]