



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

## Notice of Decision

Decision Date: June 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001436

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 eligibility determinations and December 26, 2014 preliminary 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).

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NY State of Health Number: [REDACTED]  
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[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 in the December 22, 2014 eligibility determination that your daughter was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance, and was further not eligible to enroll in a qualified health plan at full cost through the Marketplace?

Did the Marketplace properly determine in the December 26, 2014 preliminary determination that your daughter was eligible to enroll in your family's plan no earlier than February 1, 2015?

Did the Marketplace properly determine in the December 26, 2014 preliminary determination that your family would be eligible for up to \$935.00 per month in advance premium tax credits no earlier than February 1, 2015?

## Procedural History

On November 6, 2014, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for 2015. The notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you and your family qualified for continuing financial help in paying for your health coverage in 2015. You were directed to update the information in your NY State of Health account by December 15,

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2014, or the financial help you were receiving might end. It did not say that your family might become ineligible to enroll in any plan at all through the Marketplace, even without financial assistance.

No updates were made to your account by December 15, 2014.

On December 22, 2014, the Marketplace issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a qualified health plan (QHP) at full cost, effective January 1, 2015. The notice further stated that you and your spouse were not eligible to receive advance premium tax credits (APTC) because the "Renewal period and income data [was] not available."

That same day, the Marketplace issued a notice of eligibility determination stating that your son and daughter were not eligible for Medicaid, Child Health Plus (CHP), tax credits, or cost sharing reductions (CSR) to help pay for the cost of health insurance. They were also found not eligible to enroll in a qualified health plan (QHP) at full cost through the Marketplace. This determination was issued because "you did not respond to the renewal notice and did not complete your renewal within the required timeframe. As a result, you [both children] no longer qualify to receive financial assistance to help pay for your health coverage." It did not say explain why your children would not be eligible to enroll in a QHP at full cost, even if they were not eligible for financial assistance.

On December 23, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 22, 2014, you and your spouse were enrolled in a QHP with a premium responsibility of \$759.58. The notice further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin, which could be as early as January 1, 2015. If you did not pay your premium, you might not have health coverage.

On December 26, 2014, the Marketplace received a revised application and made a preliminary determination indicating that you, your spouse, and your daughter were eligible to enroll in a QHP; eligible to receive an APTC of up to \$935.00 per month; and, if you selected a silver-level plan, eligible for CSR. These would be effective February 1, 2015. Your son was also found eligible for coverage under CHP beginning February 1, 2015. In each case, however, the Marketplace requested that you provide additional documentation to confirm that the information contained in your application was accurate. No written notice of eligibility determination was issued in connection with this preliminary determination.

The enrollment details in your account indicated that your daughter was enrolled in your plan effective February 1, 2015.

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On January 12, 2015, you spoke with the Marketplace's Account Review Unit to appeal the December 26, 2014 preliminary eligibility determination insofar as your daughter was found eligible to enroll in a QHP no earlier than February 1, 2015. Also, in the event she was determined eligible to enroll in a QHP effective January 1, 2015, you were seeking to backdate your APTC award of \$935.00 to include January 2015, to help pay for insurance that month.

On February 18, 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 did not update your account by December 15, 2014 as requested by the renewal request notice issued on November 6, 2014.
- 2) On December 22, 2014, the Marketplace issued a notice of eligibility determination finding you and your spouse eligible to enroll in a qualified health plan (QHP) at full cost, which could be effective as early as January 1, 2015.
- 3) On December 22, 2014, the Marketplace issued a separate notice of eligibility determination finding that your daughter and son were not eligible for Medicaid, Child Health Plus (CHP), tax credits, or cost sharing reductions (CSR) to help pay for the cost of health insurance. They were also found ineligible to enroll in a QHP through the Marketplace, because you had not responded to the renewal notice and had not completed your renewal within the required timeframe.
- 4) On December 26, 2014, the Marketplace received your application and made a preliminary determination stating that you, your spouse, and your daughter were eligible to enroll in a QHP; eligible to receive an advance premium tax credit (APTC) of up to \$935.00 per month; and, if you selected a silver-level plan; eligible for CSR, effective February 1, 2015.
- 5) You testified that the bill you received for the month of January 2015 was approximately \$900.00, which made coverage for that month unaffordable. You further testified that you believed the premium should have been \$147.39, after applying the \$935.00 in APTC.
- 6) You testified that you did not pay the January 2015 premium because it was too expensive without the tax credit being applied. You further

stated that you had not yet paid the February 2015 premium, but would do so within a couple of days.

- 7) You testified that you were not only seeking to backdate coverage for your daughter under your plan to January 1, 2015, but also to have your APTC award of \$935.00 applied to that month as well to help pay for the cost of insurance.
- 8) You testified that your daughter had incurred some medical expenses during the month of January 1, 2015 for which you had to pay out-of-pocket.
- 9) On March 19, 2014, a Marketplace representative updated the coverage start date for you, your spouse, and your daughter under your QHP to February 1, 2015.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year (45 CFR § 155.335, 45 CFR §155.410(d)). The Marketplace must then issue an annual redetermination notice, which specifies the individual's projected eligibility determination regarding financial assistance, such as tax credits, cost-sharing reductions, Medicaid, or Child Health Plus (45 CFR § 155.335(c)(3)).

The Marketplace must generally require a qualified individual to report any change with respect to eligibility standards within 30 days of such change (45 CFR § 155.35(e)). If an individual fails to timely respond, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (42 CFR § 155.335 (h)(1)).

### Redetermination during a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace may determine that any change made after the 15<sup>th</sup> of any month will not be effective until the first day of the second following month (42 CFR § 155.330 (f)(2)).

## Eligibility to Enroll Through the Marketplace

The Marketplace must generally determine an applicant eligible for enrollment in a qualified health plan (QHP) through the Marketplace if 1) he or she is a citizen or national of the United States or is a non-citizen who is lawfully present in the United States, 2) is not incarcerated, and 3) meets the applicable residency requirements (45 CFR § 155.305(a)).

## **Legal Analysis**

The issue is whether the Marketplace properly determined in the December 22, 2014 eligibility determination that your daughter was ineligible to enroll in a qualified health plan (QHP) and ineligible to receive financial assistance through the Marketplace effective January 1, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the information by which the Marketplace will use to determine an individual's eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 6, 2014, the Marketplace issued an annual eligibility redetermination notice in your case. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you and your family qualified for financial help paying for your health coverage or what coverage you could have next year. You were asked to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end. The notice said you might be eligible to buy a health plan through the Marketplace at full cost. It did not say that your family might become ineligible to enroll in any plan at all through the Marketplace, even at full cost.

You credibly testified that you did not submit an updated application since you missed the November 6, 2014 renewal notification that was issued to you.

On December 15, 2014, the Marketplace had not received any updated information from you. Therefore, the Marketplace was required to use the information that was contained in the November 6, 2014 notice in order to determine your daughter's eligibility for coverage beginning January 1, 2015.

On December 22, 2014, the Marketplace issued a notice stating that your daughter and was not eligible for Medicaid, Child Health Plus (CHP), tax credits or cost sharing reductions (CSR) to help pay for the cost of health insurance.

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She was also found not to be eligible to enroll in a QHP at full cost since you did not respond to the renewal notice and did not complete your renewal within the required timeframe.

At no time were you provided specific notice that if you did not respond to the renewal notice, your daughter would not be eligible to enroll in any QHP through the Marketplace, even at full cost. Further, the December 22, 2014 notice regarding your children did not provide any basis for finding that your children were not eligible to enroll in a QHP at full price through the Marketplace pursuant to 45 CFR § 155.305(a).

Therefore, the December 22, 2014 notice of eligibility determination improperly found that your children were not eligible to enroll in a QHP at full cost through the Marketplace effective January 1, 2015, because that was not clearly specified in the November 6, 2014 renewal notice.

However, the Marketplace did properly find that your daughter was no longer eligible to receive financial assistance through the Marketplace, because it was required to do so once you failed to timely respond to the renewal notice.

Therefore, the December 22, 2014 eligibility determination regarding your daughter is MODIFIED to reflect that while your daughter was no longer qualified to receive financial assistance to help pay for her health coverage, she was still eligible to enroll in a QHP at full cost through the Marketplace, effective January 1, 2015.

The second issue is whether the Marketplace properly determined in the December 26, 2014 preliminary determination that your daughter was eligible to enroll in your family's plan no earlier than February 1, 2015.

The Marketplace received your revised application on December 26, 2014. In response to that application, your daughter was found eligible to enroll in a QHP. Since your updated application was not received until after the 15<sup>th</sup> of the month, the earliest your daughter would be eligible to enroll in your plan based on this new application would be the first day of the second month following your revised application, or February 1, 2015. However, since she should have been found eligible to enroll in a QHP at full cost, effective January 1, 2015, in the earlier determination, this subsequent preliminary determination is no longer relevant.

Finally, the third issue is whether the Marketplace properly determined that your family was not eligible for an advance premium tax credit (APTC) in January 2015.

Again, since you did not timely respond to the renewal notice, the Marketplace properly found that you were not eligible for an APTC for January 2015 in the December 22, 2014 eligibility determinations. Additionally, you testified that you

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had not paid the premium for January 2015 and your account suggests that you and your wife were not enrolled in any plan for that month. Since you were not enrolled, even though you were eligible for such enrollment, you would not be eligible for APTC for yourself and your spouse for that month in any event.

## **Decision**

The December 22, 2014 eligibility determination regarding your daughter is MODIFIED to reflect that while your daughter was no longer qualified to receive financial assistance to help pay for her health coverage, she was still eligible to enroll in a qualified health plan (QHP) at full cost through the Marketplace, both effective January 1, 2015.

The December 26, 2014 preliminary eligibility determination is AFFIRMED; however, it has been superseded by this determination regarding the December 22, 2014 eligibility determination as noted above.

**Effective Date of this Decision:** June 8, 2015

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

Your daughter is eligible to enroll in a qualified health plan (QHP) at full cost effective January 1, 2015.

You, your spouse, and daughter continue to be eligible to receive up to \$935.00 per month of advance premium tax credit (APTC), and if you select a silver-level plan, eligible for cost sharing reductions (CSR), effective February 1, 2015.

However, please note that in order to finalize you and your family's eligibility, you must provide documentation to prove your level of income.

## **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.

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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 22, 2014 eligibility determination regarding your daughter is MODIFIED to reflect that while your daughter was no longer qualified to receive financial assistance to help pay for her health coverage, she was still eligible to enroll in a qualified health plan (QHP) at full cost through the Marketplace, both effective January 1, 2015.

The December 26, 2014 preliminary eligibility determination is AFFIRMED; however, it has been superseded by this determination regarding the December 22, 2014 eligibility determination as noted above.

However, please note that in order to finalize your and your family's eligibility, you must provide documentation to prove your level of income if you have not already done so.

## **Legal Authority**

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

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

[REDACTED]  
[REDACTED]  
[REDACTED]