



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

## Notice of Decision

Decision Date: June 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001478

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 16, 2015 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: AP000000001478

[REDACTED]  
[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 of up to \$5.00 per month, effective February 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions, effective February 1, 2015?

## Procedural History

The Marketplace received your updated application for health insurance on January 15, 2015, in which you attested to an expected yearly income of \$52,000.00.

That same day, the Marketplace prepared a preliminary eligibility determination based on your January 15, 2015 application. It stated that you were eligible to receive up to \$5.00 per month in advance premium tax credit (APTC), effective February 1, 2015, but did not find that you were eligible for cost-sharing reductions (CSR) or Medicaid. Your two children were each found eligible to enroll in Child Health Plus (CHP) at a reduced premium rate of \$30.00 per month each, also effective February 1, 2015.

Also on that same day, you spoke with the Marketplace's Account Review Unit to appeal the January 15, 2015 preliminary eligibility determination insofar as you were found eligible for no more than \$5.00 per month in APTC.

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On January 16, 2015, the Marketplace issued a notice of eligibility determination stating, in pertinent part, that you were eligible to enroll in a qualified health plan (QHP), and eligible to receive an APTC of up to \$5.00 per month beginning February 1, 2015. The notice further stated that you were not eligible for CSR or Medicaid.

On February 26, 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 unmarried and live with your two children.
- 2) You testified that you are seeking health insurance coverage only for yourself, since your two children are currently enrolled in a Child Health Plus (CHP) plan through the Marketplace.
- 3) You testified, and your application indicates, that you expect to file as "head of household" and claim your two children as dependents when you file your 2015 taxes.
- 4) You currently reside in Bronx County, New York.
- 5) In your January 15, 2015 application, you attested that your expected earnings during 2015 from [REDACTED] was \$52,000.00.
- 6) You testified that this expected level of income was accurate at the time you submitted your January 15, 2015 application, and remains an accurate estimation of your expected income for 2015, provided your employment situation remains the same.
- 7) You testified that the premium amount for a plan through the Marketplace, even after taking into account the \$5.00 per month tax credit, was approximately \$300.00 per month. You further testified that without an increase in the amount of advance premium tax credit (APTC) you are eligible for, the plans available through the Marketplace are unaffordable to you due to your monthly living expenses including rent and child care.

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 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 first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-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-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

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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)).

### Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible to receive an advance premium tax credit (APTC) of up to \$5.00 per month.

In the application that was submitted on January 15, 2015, you attested to an expected yearly income of \$52,000.00, and the eligibility determination relied on that information.

According to the record, you are in a three-person tax household because you expect to file a U.S. Income Tax return for 2015, file as “head of household,” and claim your two children as dependents.

You reside in Bronx County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$371.75 per month.

An annual household income of \$52,000.00 is 262.76% of the 2014 federal poverty level (FPL) for a three-person household. At 262.76% of the FPL, the expected contribution to the cost of the health insurance premium is 8.47% of income, or \$367.03 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$371.75 per month) minus your expected contribution (\$367.03 per month), which equals \$4.72 per month.

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Therefore, rounding to the nearest dollar, the Marketplace correctly determined you eligible for up to \$5.00 per month in APTC.

The second 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 262.76% of the 2014 FPL, you were correctly found to be not eligible for CSR.

Since the January 16, 2015 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for an APTC up to \$5.00 per month and ineligible for CSR, it is correct and is AFFIRMED.

You testified that you may not be able to afford to pay your health insurance premium. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for information and an application.

## **Decision**

The January 16, 2015 eligibility determination is AFFIRMED.

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

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

Your eligibility has not changed.

You continue to be eligible to receive an advance premium tax credit (APTC) of up to \$5.00 per month.

You are not eligible for cost sharing reductions (CSR).

## **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.

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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 January 16, 2015 eligibility determination is AFFIRMED.

You continue to be eligible to receive an advance premium tax credit (APTC) of up to \$5.00 per month.

You are not eligible for cost sharing reductions (CSR).

If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)).

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## **Legal Authority**

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

[REDACTED]  
[REDACTED]  
[REDACTED]