



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: AP000000001479

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 30, 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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[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 are eligible for an advanced premium tax credit of up to \$60.00 per month as of December 30, 2014?

Did the Marketplace properly determine that you are eligible for cost-sharing reductions as of December 30, 2014?

## Procedural History

On December 29, 2014, you modified your health insurance application through the Marketplace. On December 30, 2014, the Marketplace issued an eligibility determination stating that you are eligible to receive advance premium tax credits of \$60.00 per month, eligible to receive cost-sharing reductions, and not eligible for Medicaid.

On January 15, 2015, you spoke to the Marketplace's Account Review Unit and appealed the amount of advance premium tax credits.

On February 10, 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 applying for health insurance through the Marketplace for yourself only.
2. You testified that your husband is eligible for Medicare benefits.
3. You testified that you expect to file a U.S. Income Tax return for 2015.
4. You plan to file your 2015 tax return with the tax status married filing jointly, with your spouse, and claim no dependents on that tax return.
5. According to your December 29, 2014 Marketplace application, your annual household income is \$37,104.00. You expected to receive \$9,792.00 in Social Security Benefits. Your spouse expected to receive \$24,372.00 in Social Security Benefits and \$2,940.00 in Unemployment Insurance Benefits.
6. You currently reside in Genesee County, New York.
7. You testified that based upon your current level of income and monthly expenses, insurance through the Marketplace is unaffordable to you.
8. You testified that your monthly Social Security Benefits increased from \$816.00 per month to \$830.00 per month in January 2015.
9. You testified that your spouse's Social Security Benefits increased from \$2,031.00 to \$2,067.00 in January 2015.
10. You testified that your spouse will receive eight weeks of unemployment insurance benefits in 2015 at \$420.00 per week.

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 and (1) expects to have a household income between 138% and 400% of the 2014 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 qualified health plan; and (3) is not

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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 the 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).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (see 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).

At the end of a tax year, a person who elects to take the APTC to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund. A person who received more tax credit than her maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

#### Cost-Sharing Reductions:

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a qualified health plan (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 percent 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)).

## Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a QHP. Such an exemption may be granted if that person can show that 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**

According to the record, you have a two-person tax household. You expect to file your 2015 federal income tax return with the tax status of married filing jointly with your husband and claim no dependents on that return.

You reside in Genesee County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$295.03 per month.

A two-person household may qualify for an advance premium tax credit (APTC) if the annual household income is between \$21,708.00 (138% 2014 FPL) and \$62,920.00 (400% 2014 FPL).

The December 30, 2014, eligibility determination was based on an annual household income of \$37,104.00, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$37,104.00 equals 235.88% of the 2014 federal poverty level (FPL) for a two-person household. At 235.88% of the FPL, the expected contribution to the cost of the health insurance premium is 7.60% of income, or \$235.00 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$295.03 per month) minus your expected contribution (\$235.00 per month), which equals \$60.03 per month. Therefore, the Marketplace correctly computed your APTC to be \$60.00 per month.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is

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235.88% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found eligible for cost-sharing reductions.

However, you testified that your expected 2015 annual household income is not accurately reflected in your December 29, 2014 Marketplace application. You credibly testified that your monthly Social Security Benefits increased from \$816.00 per month to \$830.00 per month in January 2015, and your spouse's Social Security Benefits increased from \$2,031.00 to \$2,067.00 in January 2015.

You also testified that your spouse will receive eight weeks of unemployment insurance benefits in 2015 at \$420.00 per week, not the seven weeks reported on the December 29, 2014 Marketplace application.

Since the premium tax credit that can be authorized on an expected income of \$37,104.00 is not materially different than the credit that can be authorized on the increase in annual household income stated at the hearing, that difference will be properly reconciled on a federal individual income tax return.

Since the December 30, 2014, eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$60.00 per month and eligible for cost-sharing reductions, it is correct and is **AFFIRMED**.

## **Decision**

The December 30, 2014 eligibility determination is **AFFIRMED**.

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

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

This decision does not change your eligibility.

You remain eligible to receive an advance premium tax credit of up to \$60.00 per month.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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

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Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **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 30, 2014 eligibility determination is **AFFIRMED**.

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You remain eligible to receive an advance premium tax credit of up to \$60.00 per month.

Any difference between the advance premium tax credit (based on your expected 2015 income) and the premium tax credit you can claim on your 2015 federal tax return (based on your actual 2015 income) should be reconciled on your 2015 federal tax return.

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 additional information and an application.

## **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]