



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

**Notice of Decision**

Decision Date: June 30, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001507

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 22, 2014 and January 3, 2015 eligibility determinations.

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 Code of Federal Regulations (CFR) 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

Decision Date: June 30, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001507

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine on December 21, 2014 that you and your wife were eligible to purchase a qualified health plan at full cost effective January 1, 2015?

Did you and your wife have health coverage for January 2015, and if so, should the amount of advance premium tax credit stated in the January 3, 2015 notice be applied to the January 2015 premium for that coverage?

## 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 wife 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, 2014, or the financial help you were receiving might end.

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

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated you and your wife were eligible to purchase a qualified health plan, but only at full cost to you. You and your wife were not eligible to receive advance premium tax credits (APTC) because "Renewal period and income data is not available." You and your wife were not eligible for cost-sharing reductions

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because you were ineligible to receive APTC. You and your wife were not eligible for Medicaid because your household income was in excess of that allowed by that program. This eligibility was effective January 1, 2015.

On December 22, 2014, and on December 25, 2014, the Marketplace issued enrollment confirmation notices that stated you and your wife were enrolled in a health plan, with a premium responsibility of \$669.52. The notices further stated that if you had a premium responsibility, you must pay the monthly premium or you might not have health coverage.

On January 2, 2015, information in your Marketplace account was updated.

On January 3, 2015, the Marketplace issued an eligibility determination notice that stated you and your wife were newly eligible to receive up to \$596.00 per month in APTC, and to receive cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective February 1, 2015.

On January 20, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it resumed your financial assistance eligibility on February 1, 2015, and not January 1, 2015.

On February 25, 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 and your wife enrolled in a health plan in 2014 and that you received billing statements from your insurance carrier, telling you the premium you had to pay.
- 2) You testified that you receive notices from the Marketplace via regular mail.
- 3) You testified that you received the November 6, 2014 notice from the Marketplace asking you to update your information.
- 4) You testified that you believed you updated the information in your Marketplace account around the deadline as stated in the renewal notice.
- 5) You testified that you updated your account on January 2, 2015.

- 6) You testified that you did not know you had to pay the full premium for the month of January 2015 until you received a bill from your health plan that stated your premium responsibility.
- 7) You testified that you paid the full premium amount of \$669.52 for January 2015 coverage for you and your wife.
- 8) You testified that you expected to receive phone calls from the Marketplace making it clear what you would owe if you did not respond to the November 6, 2014 renewal notice. You further testified that the policy was not made clear to you as far as the consequences of having to pay for the full premium in January.

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, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine

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that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the next following month (45 CFR §155.330 (f)(2)), and it has elected to do so (13 OHIP/ADM-03).

When an eligibility redetermination results in a change in the amount of advance premium tax credit (APTC) for the benefit year, the Marketplace must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the benefit year (45 CFR § 155.330(g)).

### End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit 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, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you and your wife were eligible to enroll in a qualified health plan at full cost 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, which you did receive. 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 wife qualified for financial help paying for your health coverage for 2015. 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.

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You testified that you had received the notice informing you that you and your wife needed to update your Marketplace information or risk losing your financial assistance. You testified that you expected to receive phone calls making it clear what you would owe if you did not respond to the November 6, 2014 renewal notice. The regulations only require the Marketplace to send a notice of the annual eligibility redetermination.

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 you and your wife's eligibility for coverage beginning January 1, 2015. On December 22, 2014, the Marketplace issued a notice that stated you and your wife were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. You were not eligible to receive an advance premium tax credit (APTC) because renewal period and income data was not available. This finding was necessitated by the federal regulations noted above and, therefore, the Marketplace's December 22, 2014 eligibility determination is **AFFIRMED**.

The second issue is whether you and your wife had coverage through your plan in January 2015 and whether the APTC amount listed in the January 3, 2015 eligibility determination notice should be applied to the premium amount for January.

On December 22, 2015 and on December 25, 2015, the Marketplace issued a letter that stated you and your wife were enrolled in your plan with a premium responsibility of \$669.52. The letter further stated that if you had a premium responsibility, you must pay the monthly premium before your coverage could begin. If you did not pay your premium, you might not have health coverage.

You testified that you paid \$669.52 to Oscar to cover the premium responsibility for the month of January. By paying your premium, your coverage through your plan was effective as of January 1, 2015.

On January 2, 2015, you updated the information in your Marketplace account. This resulted in a January 3, 2015 eligibility determination notice that stated you and your wife were newly eligible to receive up to \$596.00 in APTC, and cost-sharing reductions if you enrolled in a silver level health plan. This eligibility was effective February 1, 2015.

When an individual changes information in their application before the 15th of any month, the Marketplace must make the redetermination that results from that change effective the first day of the following month. Therefore, the Marketplace's January 3, 2015 eligibility determination was correct in finding that you were not eligible for APTC in January 2015.

However, when APTC is recalculated mid-year, the Marketplace is required to prorate monthly amounts to reflect APTC that has already been received, to ensure that the APTC you receive during the year is as close as possible to the overall tax credit you will be entitled to when you file your taxes for the 2015 tax year. It appears that the Marketplace did not do this. Instead, it simply found you eligible for the monthly amount to which you would have been entitled had you received APTC for the entire 12 months of the year.

Therefore, the matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the 11 months of 2015.

## **Decision**

The December 22, 2014 eligibility determination is AFFIRMED.

The January 3, 2015 eligibility determination is MODIFIED to reflect that you are tentatively eligible for up to \$596.00 per month in advance premium tax credit (APTC), and the matter is returned to the Marketplace for a recalculation of the amount to which you are eligible for during the 11 months of the year for which you received (or will receive) an APTC.

**Effective Date of this Decision:** June 30, 2015

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

You and your wife were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

You and your wife were enrolled in your plan effective January 1, 2015.

You and your wife are tentative eligible for up to \$596.00 in advance premium tax credit and eligible for cost-sharing reductions effective February 1, 2015; this amount may change depending on the Marketplace's recalculation.

## **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 December 22, 2014 eligibility determination is **AFFIRMED**.

The January 3, 2015 eligibility determination is **MODIFIED** to reflect that you are tentatively eligible for up to \$596.00 per month in advance premium tax credit (APTC), and the matter is returned to the Marketplace for a recalculation of the amount to which you are eligible for during the 11 months of the year for which you received (or will receive) an APTC.

You and your wife were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

You and your wife were enrolled in your plan effective January 1, 2015.

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You and your wife are tentatively eligible for up to \$596.00 in APTC and eligible for cost-sharing reductions effective February 1, 2015; this amount may change depending on the Marketplace's recalculation.

## **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]