



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

## Notice of Decision

Decision Date: July 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001519

[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 16, 2014 and 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).

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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001519

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly determine that you are conditionally eligible to receive an advance premium tax credit of up to \$148.00 per month?

Did the Marketplace properly determine that you are eligible for cost-sharing reductions if you enroll in a silver level health plan?

## Procedural History

The Marketplace received your application for health insurance on December 15, 2014, in which you attested to an annual household income of \$36,862.92.

On December 16, 2014, the Marketplace issued a notice of eligibility determination based on your December 15, 2014 application. It stated that you were conditionally eligible to receive an advance premium tax credit (APTC) of up to \$150.00 per month and, if you selected a silver-level plan, conditionally eligible for cost sharing reductions (CSR). This eligibility was effective January 1, 2015. The notice further requested that you provide documents proving your income no later than March 17, 2015.

On January 15, 2015, you submitted a revised application in which you again attested to an annual household income of \$36,862.92.

On January 16, 2015, the Marketplace issued a notice of eligibility redetermination based on your January 15, 2015 application. It stated that you were conditionally eligible to receive an APTC of up to \$148.00 per month and, if

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you selected a silver-level plan, eligible for CSR. This eligibility was effective February 1, 2015. The notice further requested that you submit documents proving your income no later than April 17, 2015.

On January 20, 2015, you spoke with the Marketplace's Account Review Unit to appeal the December 16, 2014 and January 16, 2015 eligibility determinations insofar as you were found conditionally eligible to receive an APTC of up to \$150.00 and \$148.00 per month, respectively.

On February 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Your spouse also attended the hearing as your Authorized Representative. 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) Your authorized representative testified that you are married and that your children are grown and no longer in your household.
- 2) Your authorized representative testified that you are the only member of your household seeking health insurance through the Marketplace.
- 3) Your authorized representative testified that you expect to file a 2015 U.S. Income Tax Return with a filing status of "married filing jointly" and claim no dependents on that tax return.
- 4) You testified, and your application indicates, that you live in Suffolk County, New York.
- 5) In your December 15, 2014 and January 15, 2015 applications, you attested that you receive \$1,379.08 per month in income. Your authorized representative testified that this amount is related to your income from rental properties.
- 6) In your December 15, 2014 and January 15, 2015 applications, you attested that your spouse receives \$1,692.83 per month in Social Security benefits.
- 7) Your authorized representative testified that he did not understand why there was a decrease in the tax credit amount if the household income had not changed, and was concerned the tax credit was not being calculated correctly.

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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

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 (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 first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you are eligible to receive an advance premium tax credit of up to \$148.00 per month.

In the application that was submitted on January 15, 2015, you attested to an expected yearly income of \$36,862.92, and the eligibility determination relied upon that information.

According to the record, you are in a two-person household since you expect to file a 2015 U.S. Income Tax return with a filing status of “married filing jointly” and you will claim no dependents on that tax return.

You reside in Suffolk County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$379.93 per month.

An annual household income of \$36,862.92 is 234.35% of the 2014 federal poverty level (FPL) for a two person household. At 234.35% of the FPL, the expected contribution to the cost of the health insurance premium is 7.55% of income, or \$231.93 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county for an individual (\$379.93 per month) minus your expected contribution (\$231.93 per month), which equals \$148.00 per month. Therefore, the Marketplace correctly found you conditionally eligible for an APTC of up to \$148.00 per month in the January 16, 2015 eligibility determination.

We note that in the December 16, 2014 eligibility determination, the Marketplace found you conditionally eligible for an APTC of up to \$150.00 per month, which was based on the same attested income of \$36,862.92. While this APTC amount was apparently issued in error, this determination only reflects an excess of \$2.00 per month of APTC (applicable only to the month of January 2015), and any difference in APTC amount for that month is properly reconciled on your 2015 federal income tax return.

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The second issue is whether the Marketplace properly determined that you are 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 234.35% of the 2014 FPL, you were correctly found to be 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 APTC of up to \$148.00 per month and eligible for CSR, it is correct and is AFFIRMED.

While your eligibility was deemed conditional pending the receipt of income documentation, we note that the Marketplace has received and verified copies of your spouse's Social Security Benefit award letter, as well as issued a new notice of eligibility determination.

## **Decision**

The January 16, 2015 eligibility determination is AFFIRMED.

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

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

You continue to be eligible to receive up to \$148.00 per month of advance premium tax credit (APTC) to assist in purchasing your coverage, and if you enroll in a silver-level plan, eligible for cost sharing reductions (CSR).

The excess \$2.00 you received in an APTC during the month of January 2015 is properly reconciled on your federal individual income tax return.

Please note that this Decision has no effect on any subsequent determination issued by the Marketplace on or after January 16, 2015, including the February 26, 2015 determination finding you fully eligible for up to \$148.00 per month of APTC, and if you enroll in a silver-level plan, eligible for 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 conditionally eligible to receive up to \$148.00 per month of advance premium tax credit (APTC), and if you enroll in a silver-level plan, eligible for cost sharing reductions (CSR).

The excess \$2.00 you received in an APTC during the month of January 2015 is properly reconciled on your federal individual income tax return.

Please note that this Decision has no effect on any subsequent determination issued by the Marketplace on or after January 16, 2015, including the February

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26, 2015 determination finding you fully eligible for \$148.00 per month of APTC, and if you enroll in a silver-level plan, eligible for CSR.

## **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]