



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

## Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001617

[REDACTED]

Dear [REDACTED],

On September 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 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 Code of 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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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001617



## Issues

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

Did the Marketplace properly automatically renew your health coverage through Essential Care Bronze at full cost, effective January 1, 2015?

Should the amount of advance premium tax credit stated in the January 29, 2015 notice be applied to the January and February 2015 premiums for your Essential Care Bronze plan?

## Procedural History

On November 6, 2014, the Marketplace issued a renewal notice that stated, based on the information from federal and state data sources, a decision about whether or not you and your spouse qualified for financial help could not be made. That notice instructed you to update the information on your Marketplace account by December 15, 2014, so an appropriate decision could be made and, if you miss this deadline, the financial assistance you were then getting may end.

As of December 15, 2014, your Marketplace application was not updated.

On December 22, 2014, the Marketplace issued a notice of eligibility redetermination that said you and your spouse were newly eligible to purchase a qualified health plan at full cost, effective January 1, 2015.

On December 23, 2014, the Marketplace issued a notice confirming your and your spouse's enrollment in Essential Care Bronze with a monthly premium responsibility of

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\$609.64. That notice further stated that health insurance coverage will begin as soon as you made your first month's premium payment and could start as early as January 1, 2015.

On January 28, 2015, the Marketplace prepared a preliminary eligibility redetermination that, based on your updated income of \$37,924.00, you and your spouse were newly eligible to share in up to \$499.00 of advance premium tax credits (APTC) and newly eligible for cost-sharing reductions provided you select a silver-level qualified health plan, effective March 1, 2015.

That same day, you spoke with the Marketplace's Account Review Unit and requested an appeal of that preliminary determination insofar as your APTC amount was not applied as of January 1, 2015.

On January 29, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the January 28, 2015 preliminary redetermination.

That same day, the Marketplace issued an enrollment notice confirming your and your spouse's selection of Essential Care Bronze, with a monthly premium responsibility of \$110.64 after your APTC of \$499.00 was applied. The notice also stated that your health insurance could start after you paid your first month's premium and could start as early as January 1, 2015.

Your scheduled hearing on March 4, 2015 was adjourned because of technical difficulties at the Marketplace.

On September 9, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to submit the renewal notice from your health insurance plan. You were granted a further extension to submit this document until October 7, 2015.

On October 7, 2015, the Appeals Unit received a two page fax from you, consisting of a cover page and a copy of the October 24, 2014 renewal notice from Health Republic Insurance of New York. That same day, this two page fax was made part of the record as "Appellant's Exhibit A" and the record was closed.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You are seeking review of your advance premium tax credits (APTC) not being applied to your January and February 2015 premiums.

- 2) You testified, and the record reflects, that you and your spouse shared in APTC of \$226.00 per month in 2014, and were enrolled in Essential Care Bronze as of September 1, 2014.
- 3) You testified that you elected to receive notices from the Marketplace electronically and, while you received email notices in November 2014 through January 2015, you could not access the Marketplace website or your Marketplace account to review those notices.
- 4) You testified that, as a result, you never received the November 6, 2014, December 22, 2014, or December 23, 2014 notices from the Marketplace regarding your health coverage for 2015.
- 5) You testified and provided documentary proof that you received an October 24, 2014 renewal notice from Health Republic Insurance of New York that stated your current coverage will be automatically renewed on January 1, 2015, and if you want to keep your current policy, you don't need to do anything further (Appellant's Exhibit A).
- 6) You testified that you relied on the renewal notice from Health Republic Insurance of New York and believed your and your spouse's coverage was all set for 2015 through Essential Care Bronze beginning January 1, 2015.
- 7) You testified that, when you received the January 2015 premium statement for full cost of the premium, you contacted Health Republic Insurance of New York and were told you should have contacted the Marketplace at the time of renewal, which you were not aware of.
- 8) You testified that you contacted the Marketplace on January 28, 2015 and changed your election for receiving notices from electronic to regular mail, which is reflected in your Marketplace account, and have been receiving notices in the mail without any problem since.
- 9) You testified that at the time of that call, you also updated your income to \$34,924.00 because you had retired in 2014 and no longer had earned income.
- 10) According to your Marketplace account, your and your spouse's eligibility was redetermined and you both were found eligible to share in \$499.00 per month of APTC, effective March 1, 2015.
- 11) You testified that you want your APTC applied as of January 2015, since you had relied on the renewal notice from Health Republic Insurance of New York that you did not need to do anything more.

12) You testified that you paid the full premium amount for January 2015 recently because Health Republic Insurance of New York said, if you did not, your coverage would be terminated for non-payment of premium.

13) You further testified that your APTC amount was applied to the February 2015 premium and you paid your premium responsibility on time.

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 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 chosen to do so.

## Legal Analysis

The only issue under review is whether the advance premium tax credit (APTC) amount stated on the January 28, 2015 notice of eligibility redetermination should apply to the premium amount as of January 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 that 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 qualify for financial help paying for your health coverage. You were asked to update the information in your NY State of Health account by December 15, 2014 or the financial help you and your spouse were receiving might end.

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 renewal notice in order to determine your and your spouse's eligibility for coverage beginning January 1, 2015. On December 22, 2014, the Marketplace issued a notice that stated you and your spouse were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015, and were not eligible to receive an APTC because the renewal period and income data was not available. This finding was necessitated by the federal regulations noted above.

On December 23, 2015, the Marketplace issued a letter that stated you and your spouse were enrolled in Essential Care Bronze with a premium responsibility of \$609.64, which is the full cost of that plan. 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 recently paid the full cost amount of the January 2015 premium of \$609.64 as demanded by Health Republic Insurance of New York so that your plan would not to be canceled for non-payment of premium and that your APTC was applied to the February 2015 premium, which you paid on time.

However, you credibly testified that you did not receive the November 6, 2014 notice asking your household to update their information with the Marketplace. Moreover, you credibly testified that you received a renewal notice from Health Republic Insurance of New York in the beginning of November 2014, which stated that if everything was the same, which you believed it was, you did not need to do anything more. Relying on this information, you did nothing to update your Marketplace account.

You testified that, had received proper notice from the Marketplace, you would have updated your account in time to meet the December 15, 2014 deadline and would have been eligible for the amount of APTC that was listed in the January 29, 2015 notice of eligibility determination, effective January 1, 2015.

However, since you reasonably relied on the information provided to you by your insurance carrier, the January 29, 2015 notice of eligibility determination is MODIFIED to state that you were eligible to receive up to \$499.00 in APTC per month and, if you enrolled in a silver level health plan, to receive cost-sharing reductions, effective January 1, 2015.

The January 29, 2015 enrollment notice that states your monthly premium responsibility for your and your spouse's Essential Care Bronze plan is \$110.64 after the monthly APTC amount of \$499.00 is applied, which can start as early as January 1, 2015, is correct and is AFFIRMED

## **Decision**

The January 29, 2015 eligibility determination notice is MODIFIED to state that you were eligible to receive up to \$499.00 in advance premium tax credits per month and, if you enrolled in a silver level health plan, to receive cost-sharing reductions, effective January 1, 2015.

The January 29, 2015 enrollment notice is AFFIRMED.

**Effective Date of this Decision:** October 28, 2015

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

You and your spouse remain enrolled in Essential Care Silver, effective January 1, 2015.

You and your spouse are eligible for up to \$499.00 in advance premium tax credits per month, effective January 1, 2015.

Any premium payments made over that amount can be taken as a credit toward future premiums or reimbursed to you. You can work out the details with Health Republic Insurance of New York.



## **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 January 29, 2015 eligibility determination notice is MODIFIED to state that you were eligible to receive up to \$499.00 in advance premium tax credits per month and, if you enrolled in a silver level health plan, to receive cost-sharing reductions, effective January 1, 2015.

The January 29, 2015 enrollment notice is AFFIRMED.

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You and your spouse remain enrolled in Essential Care Silver, effective January 1, 2015.

You and your spouse are eligible for up to \$499.00 in advance premium tax credits per month, effective January 1, 2015.

Any premium payments made over that amount can be taken as a credit toward future premiums or reimbursed to you. You can work out the details with Health Republic Insurance of New York.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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

