



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

## Notice of Decision

Decision Date: August 12, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001671

[REDACTED]

Dear [REDACTED],

On March 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 27, 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 Code of Federal Regulation (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: August 12, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001671



## Issue

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

Should you and your husband be enrolled in a qualified health plan and receive an advance premium tax credit (APTC) for the month of February 2015?

## Procedural History

On December 1, 2014, the Marketplace received multiple updated applications from you for health insurance for 2015.

On December 9, 2014, the Marketplace issued an eligibility determination notice that stated you and your husband were eligible to receive up to \$516.00 in advance premium tax credits (APTC) and, if you enrolled in a silver level health plan, cost-sharing reductions. This eligibility was effective January 1, 2015.

On December 9, 2014, the Marketplace also issued an enrollment confirmation notice that stated you and your husband were enrolled in MVP Premier Silver with a premium responsibility of \$317.10. The notice further stated that if you paid your first month premium your coverage could start as early as January 1, 2015.

On January 26, 2015, the Marketplace received two updated applications for health insurance. The first application listed a household income of \$0.00 and resulted in a preliminary eligibility determination that stated you and your husband were eligible for Medicaid. The second application listed a household income of \$40,000.00 and resulted in a preliminary eligibility determination that

stated you and your husband were eligible to receive up to \$389.00 per month in APTC.

On January 27, 2015, the Marketplace issued an eligibility determination notice that stated you and your husband were newly eligible to receive up to \$389.00 per month in APTC. This eligibility was effective March 1, 2015.

On January 27, 2015, the Marketplace also issued a disenrollment notice that stated you and your husband's coverage with MVP Premier Silver would end effective January 31, 2015.

On January 27, 2015, the Marketplace also issued a disenrollment notice that stated you and your husband's Medicaid Fee-For-Service coverage will be discontinued as of February 28, 2015.

In a fourth notice issued on January 27, 2015, your enrollment in the HMO Copayment 21 Gold NS INN Dep25 Adult Vision Lasik Wellness health plan was confirmed. This coverage could begin as early as March 1, 2015, if you paid your first month's premium.

On February 3, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal on your disenrollment from your health plan for the month of February, as well as the APTC effective date of March 1, 2015, as stated in the January 27, 2015 eligibility determination notice.

On February 4, 2015, the Marketplace issued an enrollment confirmation notice that stated you and your husband were enrolled in MVP Premier Silver with a premium responsibility of \$444.10. The notice further stated that if you pay your first month premium your coverage could start as early as March 1, 2015.

On March 2, 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 appealing because you want your coverage with MVP Premier Silver as well as your advance premium tax credit to be effective for February 1, 2015.
- 2) You testified that on January 26, 2015 you wanted to update your Marketplace account because your husband got a new job and your household income had increased.

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- 3) You testified that your screenname for your Marketplace account is [REDACTED].
- 4) The record reflects that on January 26, 2015 your Marketplace account was updated by “[REDACTED]”, specifically the income information in the account was updated to \$0.00.
- 5) The record reflects that on January 26, 2015, approximately 16 minutes after the first update, a representative from the Marketplace updated the income information in your account to \$40,000.00.
- 6) You testified that you did not know updating your account was going to result in you being disenrolled from your health plan with MVP.
- 7) You testified that you went to the doctor numerous times in the month of February and used your MVP health insurance card.
- 8) You testified that you received a Medicaid card in the mail but you never used that Medicaid card.
- 9) You testified that you paid your premium to MVP in January but they refused to accept payment for the February premium because they said you were not enrolled.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

### Marketplace Eligibility Determinations

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person’s eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

The Marketplace is required to provide “timely written notice to an applicant of any eligibility determination” made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements.

### 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 15th 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 is whether you and your husband should have remained enrolled in your former qualified health plan (MVP Premier Silver) and received an advance premium tax credit (APTC) for the month of February 2015.

On December 9, 2014, the Marketplace issued an enrollment confirmation notice that stated you and your husband were enrolled in MVP Premier Silver with a premium responsibility of \$317.10. The notice further stated that if you paid your first month’s premium, your coverage could start as early as January 1, 2015.

You testified that you paid your January premium and therefore your coverage with MVP Premier Silver was effective as of January 1, 2015.

On January 26, 2015, your Marketplace account was updated. In the first update from that day, your Marketplace application listed a household income of \$0.00. This resulted in a preliminary eligibility determination that stated you were eligible for Medicaid. However, no official notice of your eligibility for Medicaid was ever issued. The only notice that was issued that mentions Medicaid is the January 27, 2015 disenrollment notice that stated you and your husband’s Medicaid Fee-For-Service coverage will be discontinued as of February 28, 2015.

The record shows that 16 minutes after you and your husband were preliminarily found eligible for Medicaid, your account was again updated with a corrected income of \$40,000.00. This second update resulted in the January 27, 2015 eligibility determination that stated you and your husband were newly eligible to receive \$389.00 per month in APTC. This eligibility was effective March 1, 2015.

Because the updates to your account were received after the 15<sup>th</sup> of January, the Marketplace properly determined that the eligibility for APTC in the January 27, 2015 notice was effective March 1, 2015. However, the eligibility listed in the

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December 9, 2014 eligibility determination should have remained effective until March 1, 2015 because no official notice of the brief preliminary Medicaid eligibility, which was based on an incorrect income, was ever issued.

The only reason your enrollment in the MVP Premier Silver health plan ended on January 31, 2015, is because the Marketplace incorrectly believed that you and your husband had become eligible for and enrolled in Medicaid effective February 1, 2015, and would therefore not need your coverage in the MVP Premier Silver health plan.

In February, you and your husband should not have been terminated from your health plan or from your eligibility for APTC without written notice.

Therefore, for the month of February 2015 you and your husband should have remained enrolled in MVP Premier Silver with a premium amount \$317.10, as stated in the December 9, 2014 enrollment confirmation notice.

## **Decision**

Your case is RETURNED to the Marketplace to make the eligibility stated in the December 9, 2014 eligibility determination effective for the month of February.

You and your husband should have remained enrolled in MVP Premier Silver health plan in February 2015, with \$516.00 per month in advance premium tax credit, as stated in the December 9, 2014 eligibility determination for the month of February.

The January 27, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** August 12, 2015

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

You and your husband's 2015 insurance coverage with MVP Premier Silver is reinstated for the month of February and the \$516.00 per month advance premium tax credit (APTC) amount stated in the December 9, 2014 eligibility determination is effective for that month.

Effective March 1, 2015 you and your husband continue to be enrolled in MVP Premier Silver and the \$389.00 per month APTC amount stated in the January 27, 2015 eligibility determination is in effect.

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## **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**

Your case is RETURNED to the Marketplace to make the eligibility stated in the December 9, 2014 eligibility determination effective for the month of February.

The January 27, 2015 eligibility determination is AFFIRMED.

You and your husband's 2015 insurance coverage with MVP Premier Silver is reinstated for the month of February and the \$516.00 per month advance

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premium tax credit (APTC) amount stated in the December 9, 2014 eligibility determination is effective for that month.

Effective March 1, 2015, you and your husband continue to be enrolled in MVP Premier Silver and the \$389.00 per month APTC amount stated in the January 27, 2015 eligibility determination is in effect.

## **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:**

