



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

## Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001673

[REDACTED]

Dear [REDACTED],

On April 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 and January 29, 2105 eligibility determinations.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the 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).

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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 on December 22, 2014 that you were eligible to purchase a qualified health plan at full cost effective January 1, 2015?

Did the Marketplace properly determine that on January 29, 2015 your eligibility for advance premium tax credits and cost-sharing reductions was effective March 1, 2015?

## 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 also stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you 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 were newly eligible to purchase a qualified health plan at full cost. You were not eligible to receive advance premium tax credit (APTC) because "renewal period and income data [was] not available." You were not

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eligible for cost-sharing reductions (CSR) because you were ineligible to receive APTC. You 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 23, 2014, the Marketplace issued an enrollment confirmation notice stating that as of December 22, 2014, you were enrolled in Health Republic PrimarySelect PCMH Silver plan with a monthly premium responsibility of \$404.16, effective January 1, 2015. The notice further stated that if you have a premium responsibility, you must pay the monthly premium before your coverage can begin. If you do not pay your premium, you may not health coverage.

On January 28, 2015, information in your Marketplace account was updated.

On January 29, 2015, the Marketplace issued an eligibility determination notice based on your January 28, 2015 application. It stated that you were eligible to enroll in a QHP; eligible to receive an APTC of up to \$316.00 per month; and, if you selected a silver-level plan, eligible for CSR, effective March 1, 2015.

Also on January 29, 2015, the Marketplace issued a notice confirming your enrollment in a Health Republic PrimarySelect PCMH Silver plan with a monthly premium responsibility of \$88.16 after applying the maximum APTC amount of \$316.00.

On February 3, 2015, you spoke to the Marketplace's Account Review Unit and appealed the December 22, 2014 eligibility determination insofar as you were found not eligible for an APTC as of January 1, 2015 to help with the cost of paying for your health insurance and that you were seeking a retroactive application of the tax credit for the months of January and February 2015.

On April 6, 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 were enrolled in the Health Republic PrimarySelect EPO Silver plan during the 2014 plan year. You received an APTC of \$319.00 per month from May to December 2014.
- 2) You testified that you received the November 6, 2014 notice from the Marketplace requesting that you update your account by December 15,

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2014 in order to redetermine your eligibility for financial assistance. You further testified that you were not able to take action on this notice because you were out of the area due to a family medical situation.

- 3) You were enrolled in the Health Republic PrimarySelect PCMH Silver plan for coverage beginning January 1, 2015.
- 4) You testified that you only became aware that you had not received a tax credit for your coverage during the 2015 plan year when approximately \$700.00 had been debited from your checking account in mid-January. You further testified that you later found out this amount had been withdrawn by Health Republic for coverage during the months of January and February 2015
- 5) You testified that you were seeking to have the APTC amount retroactively applied to cover the premium amounts paid for both January and February's coverage, so that you could receive a reimbursement for the portion you paid for those months, since the amount for these months was unaffordable to you.

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 (CSR), 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)). 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(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective

dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

### Redetermination During a Benefit Year

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 (or not 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 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, 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 were eligible to enroll in a qualified health plan only 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 renewal 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 were receiving might end.

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You testified that you did receive the renewal notice that asked you to update your Marketplace account. However, you were not able to take action on the renewal notice because you were out of the area due to a family medical situation.

Since the Marketplace had not received any updated information from you by the time of the deadline, on December 22, 2014 an eligibility redetermination notice was issued that stated you were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. You were not eligible to receive 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 under review is whether the Marketplace properly determined that your eligibility for APTC and cost-sharing reductions (CSR) became effective no earlier than March 1, 2015.

The record shows that your application was updated on January 28, 2015. This resulted in the January 29, 2015 eligibility determination notice that stated you were eligible to receive up to \$316.00 per month in APTC, and, if you enrolled in a silver level health plan, eligible for CSR. This eligibility was effective March 1, 2015.

When an individual changes information in their application after the 15th of any month, the Marketplace must make the redetermination that results from the change effective the first day of the next following month.

Therefore, the Marketplace's January 29, 2015 eligibility determination is **AFFIRMED** because it properly began your eligibility for APTC and CSR on March 1, 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 remaining 10 months of 2015.

## **Decision**

The December 22, 2014 eligibility determination is AFFIRMED.

The January 29, 2015 eligibility determination is MODIFIED to reflect that you are tentatively eligible to receive up to \$316.00 per month in advance premium tax credit (APTC), and AFFIRMED in all other respects. Your case is returned to the Marketplace to determine the prorated amount of APTC you are currently expected to be entitled to when you file your tax return for 2015, and then to recalculate the monthly APTC based on how many months you will be receiving APTC in 2015.

The matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the 10 months of 2015.

**Effective Date of this Decision:** August 14, 2015

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

This is not a final determination as to the amount of APTC you were entitled to as of March 1, 2015; this issue will be addressed in a future notice.

## **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.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The December 22, 2014 eligibility determination is AFFIRMED.

The January 29, 2015 eligibility determination is MODIFIED to reflect that you are tentatively eligible to receive up to \$316.00 per month in advance premium tax credit (APTC), and AFFIRMED in all other respects. Your case is returned to the Marketplace to determine the prorated amount of APTC you are currently expected to be entitled to when you file your tax return for 2015, and then to recalculate the monthly APTC based on how many months you will be receiving APTC.

The matter is returned to the Marketplace to calculate the amount of APTC to which you should have received for the 10 months of 2015.

This is not a final determination as to the amount of APTC you were entitled to as of March 1, 2015; this issue will be addressed in a future notice.

## **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:**

