



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

## Notice of Decision

Decision Date: July 3, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001749

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On March 19, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 11, 2015 preliminary eligibility redetermination.

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).

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

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001749

[REDACTED]  
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## Issue

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

Did the Marketplace properly determine that, effective March 1, 2015, you and your spouse were eligible for an advance premium tax credit (APTC) up to \$573.00 monthly and, if you select a silver-level qualified health plan (QHP), for cost-sharing reductions (CSR) as of February 12, 2015?

## Procedural History

You and your spouse were enrolled in a silver-level qualified health plan (QHP) through the Marketplace as of March 1, 2014, and received and applied an advance premium tax credit (APTC) of \$596.00 per month and were eligible for cost-sharing reductions (CSR) as of that date through December 2014.

On November 6, 2014, the Marketplace issued a notice that told you it was time to renew your NY State of Health coverage for 2015. That notice stated if you want to keep your present health plan for the next year and the information on your application is still accurate, the Marketplace re-enrolled you and your spouse in your current health plan for another year and you don't need to do anything more. It further informed you that you and your spouse qualify for APTC up to \$134.97 per month and were ineligible for CSR because your income is above the allowable limit of \$49,475.00.

On December 25, 2014, the Marketplace issued a notice informing you that your insurance with NY State of Health will be terminated effective December 31, 2014, but

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don't worry because you both will be automatically renewed in the same plan for 2015. That notice also requested that you log into your account or call Customer Service Center prior to the end of your coverage date to update your account information and review plan selections, if applicable, and if you do not update your account information and select a new plan, you and others in your account may be without health care coverage.

On February 11, 2015, the marketplace prepared a preliminary eligibility redetermination that you and your spouse were eligible to receive APTC of up to \$573.00 and, if you select a silver-level QHP, for CSR, effective March 1, 2015.

That same day, you appealed the preliminary eligibility redetermination insofar as the start date of APTC and CSR was March 1, 2015, and you wanted your APTC applied to January 2015 and February 2015 monthly premiums.

On February 12, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the February 11, 2015 preliminary eligibility redetermination.

That same day, the Marketplace issued a letter confirming that you and your spouse were enrolled in the same silver-level QHP you had for 2014 and your monthly premium responsibility is \$369.38. The letter also told you that coverage can begin as early as January 1, 2015, if you paid your first month's premium.

On February 16, 2015, the Marketplace issued a disenrollment notice that, at your request, your coverage with the silver-level QHP you were currently enrolled in would end February 28, 2015.

On March 2, 2015, the Marketplace scheduled a telephone hearing and sent you notice that a Hearing Officer would be calling you on March 19, 2015 at about 2:00 p.m.

On March 19, 2015, you had a telephone hearing with a Hearing Officer with the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit copies of the billing statement and renewal letter from Empire Blue Cross Blue Shield (BCBS).

On April 4, 2015, the Marketplace's Appeals Unit received a three page fax from you. It consisted of: (1) A cover page in which you indicated you no longer have the renewal letter; and (2) a copy of the December 7, 2014 billing summary from EMPIRE BCBS for January 2015 premium amount of \$807.42. This three page fax was made part of the record as "Appellant's Exhibit A."

Since nothing further was expected, the record was closed that same day.

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## Findings of Fact

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

- 1) You are married and plan on filing your 2015 federal income tax return as married filing jointly and will be claiming one dependent child.
- 2) You testified that your household income of \$36,600.00 was the same as last year and your household still consists of three people so you had nothing to update on your Marketplace account.
- 3) You testified that you did not receive any notices from the Marketplace and, in particular, did not receive the November 6, 2014 renewal notice.
- 4) You testified that you received a notice and telephone call from your health plan in December 2014 that your current coverage would automatically renew for 2015, you did not need to do anything further, and they would send you a bill. You did not save the notice.
- 5) You testified that you relied on this information and had not received any conflicting information so you believed your health coverage had automatically renewed and your advance premium tax credit (APTC) would continue to be applied.
- 6) You testified that you received a bill from your health plan for \$807.42 for the January 2015 premium, when in 2014 your premium responsibility had been around \$200.00 monthly in the past (Appellant's Exhibit A, pp.2-3). You have not paid this bill because you took this appeal.
- 7) You have not received a premium statement from the health plan for February 2015, but you think this might be because you called and told them you are disputing having to pay the full cost of the monthly premium for January 2015 and February 2015.
- 8) You testified that the January 2015 bill triggered you to log onto your Marketplace account, which did not contain any notices in your Inbox, so you contacted the Marketplace on February 11, 2015 to find out what had happened.

- 9) You testified that you were told your Marketplace account was being corrected and the notices were populated into your Inbox. When you tried to access the notices, you still could not open any of them up.
- 10) You testified that you cannot afford to pay the full cost of premium for January 2015 and February 2015, and want your APTC applied to the premiums for those months.
- 11) According to your Marketplace account, you and your spouse were enrolled during January 2015 and February 2015 in a silver-level qualified health plan (QHP) that was the same as your 2014 health plan.

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

## **Applicable Law and Regulations**

### Annual Open Enrollment

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)). The 2015 annual open enrollment period began November 15, 2014 and extended through December 20, 2014, for coverage beginning January 1, 2015 (45 CFR §155.410(b); NY State Department of Health Press Release, December 12, 2014).

The Marketplace must ensure coverage is effective on February 1, 2015, for QHP selections received by the Marketplace from December 16, 2014 through January 15, 2015. (45 CFR §155.410(f)(2)).

### 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 2014 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)).

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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 the 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 is set by Federal law at 2% to 9.5% of annual household income (26 USC § 36B(b)(3)(A)).

For annual household income in the range of at least 250% but less than 300% of the FPL, the expected contribution is between 8.10% and 9.56% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

In an analysis of APTC eligibility, the determination is based on the FPL "for the benefit year for which coverage is requested (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$19,790.00 for a three-person household (78 Fed. Reg. 5182, 5183).

### 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 plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

## **Legal Analysis**

At issue is whether your advance premium tax credit (APTC) of up to \$573.00 should be applied in January 2015 and February 2015.

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You credibly testified that you received a notice and a telephone call from your health plan in December 2014 that your health plan would automatically renew for 2015, you did not need to do anything to effectuate the renewal, and you would be sent a bill. This information reasonably led you to believe that all you had to do was pay your January 2015 premium in order for your insurance coverage to continue uninterrupted in 2015. You credibly testified that you relied on this information from your health plan and only when you received a billing statement from them for the full premium amount did you become aware that your APTC had not been applied.

In addition, the Marketplace's November 6, 2014 renewal notice also states that your health plan will automatically renew, evidencing that is what it contemplated even though you did not receive this notice.

Further, although you did not receive any notices telling you to update your Marketplace account, you credibly testified that there was nothing to report in that there were no changes to income, household size, or any other information on your account.

Accordingly, the Marketplace's February 12, 2015 notice of eligibility redetermination is MODIFIED to state that your APTC and cost-sharing reduction (CSR) eligibility for 2015 became effective January 1, 2015.

As to the amount of APTC to which you and your spouse are entitled, in the application that was submitted in 2014, you attested to an expected yearly income of \$36,600.00, which is your husband's expected earned income that you testified at hearing will be the same for 2015. The February 11, 2015 preliminary eligibility determination relied upon that information.

According to the record, there are three people in your tax household, including you, your husband, and your child.

You reside in Rockland County, where the second lowest cost silver plan available for a couple through the Marketplace costs \$744.81 per month.

An annual income of \$36,600.00 is 184.94% of the 2014 federal poverty level (FPL) for a three-person household. At 184.94% of the FPL, the expected contribution to the cost of the health insurance premium is 5.64% of income, or \$172.02 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$744.81 per month) minus your expected contribution (\$172.02 per month), which equals \$572.79 per month. Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$573.00 per month.

Also, cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$36,600.00 is 184.94% of the 2014 FPL, the Marketplace correctly found you and your spouse eligible for cost-sharing reductions.

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## **Decision**

The February 12, 2015 notice of eligibility redetermination is MODIFIED, in part, to find you and your spouse eligible to share an advance premium tax credit of up to \$573.00 per month and eligible for cost-sharing reductions, effective January 1, 2015.

Your case is being returned to the Marketplace to modify the February 12, 2015 eligibility redetermination consistent with this Decision.

**Effective Date of this Decision:** July 3, 2015

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

The February 12, 2015 notice of eligibility redetermination is MODIFIED, in part, to find you and your spouse are eligible to share in an advance premium tax credit of up to \$573.00 per month and eligible for cost-sharing reductions, effective January 1, 2015.

Your case is being returned to the Marketplace to modify the February 12, 2015 eligibility redetermination consistent with this Decision.

## **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):**

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 February 12, 2015 notice of eligibility redetermination is MODIFIED to find you and your spouse are eligible to share in an advance premium tax credit of up to \$573.00 per month and eligible for cost-sharing reductions, effective January 1, 2015.

Your case is being returned to the Marketplace to modify the February 12, 2015 eligibility redetermination consistent with this Decision.

## **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]