



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

## Notice of Decision

Decision Date: August 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001779

[REDACTED]

Dear [REDACTED],

On April 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 7, 2014 eligibility determination.

The attached 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

Decision Date: August 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001779

[REDACTED]

## Issue

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

Did the Marketplace properly determine that you were eligible to receive an advance premium tax credit of up to \$216.03 per month and eligible for cost-sharing reductions, effective January 1, 2015?

## Procedural History

On November 7, 2014, the Marketplace issued a notice that stated it was time to renew your health insurance coverage for 2015. The notice stated that based on information from federal and state sources, the Marketplace determined that you were eligible to receive an advance premium tax credit (APTC) of up to \$216.03 per month and, if you enrolled in a silver level health plan, eligible for cost-sharing reductions (CSR). The notice also stated that if the findings were incorrect, you would need to update your account between November 16, 2014 and December 15, 2014 in order for any changes to be effective by January 1, 2015.

On February 13, 2015, you spoke with the Marketplace Account Review Unit to appeal the November 6, 2014 eligibility determination insofar as you were eligible for a tax credit no greater than \$216.03 per month.

On April 13, 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 unmarried and have no children.
- 2) You testified that you are seeking health insurance coverage only for yourself under your Marketplace account.
- 3) You testified, and your application indicates, that you expect to file your 2015 taxes with a tax filing status of “single” and claim no dependents.
- 4) You live in New York County, New York.
- 5) You testified that you expected to earn approximately \$29,000.00 during 2015 through freelancing opportunities, though anticipate taking the same level of deductions as was previously reported to the Marketplace.
- 6) The November 6, 2014 application for health insurance indicated that you anticipated taking \$316.15 in student loan interest deductions, \$50.00 in educator expense deductions and \$35.00 in quarterly deductions relating to your business expenses.

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 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

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*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-3T(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 \$11,670.00 for a one-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-3T(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 issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$216.03 per month and cost-sharing reductions (CSR).

You testified that you expect to earn approximately \$29,000.00 during 2015 through freelancing opportunities. A previous application to the Marketplace also indicates that you anticipate taking \$316.15 in student loan interest deductions, \$50.00 in educator expense deductions and \$35.00 in quarterly deductions relating to your business expenses. Therefore, your household income is \$28,598.85.

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You are in a one-person household. You expect to file you 2015 income taxes as single and will claim no children on that tax return.

You reside in New York County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$371.75 per month.

An annual income of \$28,598.85 is 245.06% of the 2014 federal poverty level (FPL) for a one-person household. At 245.06% of the FPL, the expected contribution to the cost of the health insurance premium is 7.93% of income, or \$188.99 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 (\$371.75 per month) minus your expected contribution (\$188.99 per month), which equals \$182.76 per month.

Cost-sharing reductions (CSR) are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$28,598.85 is 245.06% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

Since the record has now been developed with credible evidence that your expected 2015 household income is \$28,598.85, which would result in a different APTC than was approved, the November 7, 2014 eligibility determination is RESCINDED.

## **Decision**

The November 7, 2014 eligibility determination is RESCINDED.

The case is RETURNED to the Marketplace for a redetermination of your eligibility for APTC and CSR based on an annual household income of \$28,598.85 for a one-person household in New York County.

**Effective Date of this Decision:** August 18, 2015

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

This decision is not a final determination of your eligibility.

Your case is being sent back to the Marketplace based on an expected annual household income of \$28,598.85 for a one-person household in New York County.

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).

Once a redetermination has been made, the Marketplace will issue a notice with additional information.

## **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
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NY State of Health Appeals  
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## **Summary**

The November 7, 2014 eligibility determination is RESCINDED.

This decision is not a final determination of your eligibility.

Your case is being sent back to the Marketplace based on an expected annual household income of \$28,598.85 for a one-person household in New York County.

Once a redetermination has been made, the Marketplace will issue a notice with additional information.

## **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:**

