



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

## Notice of Decision

Decision Date: July 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001849

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On March 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 19, 2015 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).

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## Decision

Decision Date: July 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001849

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly determine that you were eligible to receive an advance premium tax credit of up to \$189.00 per month, effective April 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

## Procedural History

On February 19, 2015, the Marketplace issued a notice of eligibility redetermination based on your February 18, 2015 application. It stated that you were eligible to enroll in a qualified health plan (QHP) and eligible to receive up to \$189.00 per month in advance premium tax credits (APTC). It also stated that you were newly eligible for cost-sharing reductions (CSR), provided you selected a silver-level health plan. The notice further stated that you were not eligible for Medicaid because your household income was over the allowable income limit for that program. This determination was based, in part, on an annual household income of \$28,141.00, and was effective April 1, 2015.

On February 23, 2015, you spoke with the Marketplace's Account Review Unit to appeal the February 19, 2015 eligibility determination insofar as you were found eligible for an APTC no greater than \$189.00 per month.

On March 11, 2015, the Marketplace received copies of several earnings statements issued to you by [REDACTED]

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[REDACTED] and [REDACTED]  
[REDACTED] for the months of January and February 2015.

On March 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: (1) an earning statement issued to you by [REDACTED] on January 30, 2015 and (2) an earning statement issued from [REDACTED] [REDACTED] on February 14, 2015. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

Immediately after the hearing, you provided each of the above referenced documents to the Appeals Unit via facsimile. As a result, the record was closed on March 18, 2015.

## Findings of Fact

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

- 1) You testified, and your application indicates, that you are divorced 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 as "single" and will claim no dependents.
- 4) You live in Kings County, New York.
- 5) In your February 18, 2015 application, you attested to an expected receipt \$14,896.00 from [REDACTED] and \$14,000.00 from [REDACTED] during 2015. You also attested in your application that you expected to claim \$755.00 in educator expenses.
- 6) On March 11, 2015, you provided copies of earnings statements you received from [REDACTED] reflecting your receipt of (1) \$840.00 on January 2, 2015, (2) \$525.00 on January 16, 2015 and (3) \$525.00 on February 13, 2015. You also provided on that same date copies of earnings statements you received from [REDACTED] reflecting your receipt of (1) \$588.00 on January 16, 2015, (2) \$490.00 on January 31, 2015 and (3) \$686.00 on February 27, 2015.

- 7) On March 18, 2015, at the request of the Hearing Officer, you provided a copy of an earnings statement from [REDACTED] [REDACTED] reflecting your receipt of \$735.00 on January 30, 2015, and a copy of an earnings statement from [REDACTED] reflecting your receipt of \$784.00 on February 14, 2015.
- 8) You testified that you are paid once every two weeks by both the [REDACTED] and [REDACTED].
- 9) You testified that your income from both of these organizations was variable based on a number of factors, but did not provide a specific expected level of income for 2015 different than what was provided for under your February 18, 2015 application.
- 10) At the time of your hearing, you were still employed by both of these organizations.
- 11) You testified that you anticipate taking \$755.00 in educator expense deductions and \$5,000.00 in moving expense deductions. You further testified that this was reflected in your Marketplace application submitted on March 16, 2015.
- 12) You testified that the premium amount for the silver-level plan you enrolled in through the Marketplace during January was unaffordable, compared to what was being charged during 2014.
- 13) You testified that you had not paid your premium for January 2015, and were disenrolled as a result.

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 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 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 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-3(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 300% of the 2014 FPL, the expected contribution is between 8.10% and 6.34% 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 first issue under appeal is whether the Marketplace properly determined that you are eligible to receive an advance premium tax credit (APTC) of up to \$189.00 per month.

In the application that was submitted on February 18, 2015, you attested to an expected yearly income of \$28,141.00, which included (1) income of \$14,896.00

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from [REDACTED], (2) \$14,000.00 from [REDACTED] and a deduction of \$755.00 in educator expenses. The eligibility determination relied upon that information.

According to the record, you are the only person in your tax household since you expect to file a 2015 U.S. Income Tax return, file as single and claim no dependents.

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

An annual household income of \$28,141.00 is 241.14% of the 2014 federal poverty level (FPL) for a one-person household. At 241.14% of the FPL, the expected contribution to the cost of the health insurance premium is 7.79% of income, or \$182.64 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$371.75 per month) minus your expected contribution (\$182.64 per month), which equals \$189.11 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly found you to be eligible for APTC of up to \$189.00 per month.

The second issue under appeal is whether the Marketplace properly determined that you were eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 241.14% of the 2014 FPL, you were correctly found to be eligible for CSR.

Since the February 19, 2015 eligibility determination properly stated that, based on the information you provided to the Marketplace, you were eligible for an APTC of up to \$189.00 per month and eligible for CSR, it is correct and is **AFFIRMED**.

You testified that in addition to the \$28,896.00 in combined income you expect to receive from [REDACTED] and [REDACTED] and the \$755.00 in educator deduction you expect to take on your 2015 taxes, you expect to take an additional deduction of \$5,000.00 relating to your moving expenses.

We note that on March 16, 2015 and April 30, 2015, additional applications reflecting your expected taking of the additional \$5,000.00 deduction were submitted to the Marketplace, which resulted in eligibility determinations being issued on March 17, 2015 and May 1, 2015, respectively.

Since subsequent applications submitted included your additional deduction of \$5,000.00, the record does not support returning your case to the Marketplace for redetermination.

## **Decision**

The February 19, 2015 eligibility determination is AFFIRMED.

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

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

You continue to be eligible to receive up to \$189.00 per month in advance premium tax credit, effective April 1, 2015, and, if you select a silver-level plan, eligible for cost-sharing reductions.

Please note that this Decision has no effect on any subsequent determinations issued by the Marketplace on or after February 19, 2015, including the eligibility determinations issued on March 17, 2015 and May 1, 2015.

## **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:  
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## **Summary**

The February 19, 2015 eligibility determination is AFFIRMED.

You continue to be eligible to receive up to \$189.00 per month in advance premium tax credit, effective April 1, 2015, and, if you select a silver-level plan, eligible for cost-sharing reductions.

Please note that this Decision has no effect on any subsequent determinations issued by the Marketplace on or after February 19, 2015, including the eligibility determinations issued on March 17, 2015 and May 1, 2015.

## **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:**

[REDACTED]  
[REDACTED]  
[REDACTED]