



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

## Notice of Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001885

[REDACTED]

Dear [REDACTED],

On April 16, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014, February 25, 2015, and February 26, 2015 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).

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]  
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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 not eligible for financial assistance because your renewal period and income data were not available, effective January 1, 2015?

Did the Marketplace properly determine that on February 25, 2015 and on February 26, 2015, you were eligible to receive an advance premium tax credit of up to \$254.00 per month and cost sharing reductions, effective April 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 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 20, 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 APTC because "renewal period and income data [was] not available." You were not eligible for cost-sharing

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reductions 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 February 24, 2015 information in your Marketplace account was updated.

On February 25, 2015 and February 26, 2015 the Marketplace issued eligibility determination notices that stated you were eligible to receive up to \$254.00 in APTC and if you enrolled in a silver level health plan, cost-sharing reductions. This eligibility was effective April 1, 2015.

On February 26, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determinations insofar as your eligibility for APTC did not begin January 1, 2015.

On April 16, 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, and the record reflects, that you elected to receive your notices from the Marketplace via electronic mail.
- 2) You testified that you are legally blind and were in a nursing home for four months during which time a friend handled your mail and bills.
- 3) You testified that your friend was not familiar with the Marketplace's procedure of sending you notices electronically.
- 4) You testified when your friend did look in your Marketplace account in February, she saw the renewal notice.
- 5) You testified that you had to take out a personal loan to pay for your insurance premiums for the months of January, February, and March.
- 6) You testified that you are seeking your APTC amount to be made effective January 1, 2015.

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, 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 projected eligibility determination for the following 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)).

### Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible to enroll in a qualified health plan at full cost effective January 1, 2015.

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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 projected eligibility determination for the following year. 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 eligibility redetermination 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.

You testified that you are legally blind and that a friend assists you in the handling of your bills and mail. You further testified, that your friend did not know that she needed to go online to check your Marketplace account. You testified that when she did look in your Marketplace account, the November 6, 2014 notice that asked you to renew your account with the Marketplace was in your mailbox.

Since the Marketplace had not received any updated information from you by the time of the deadline stated in the renewal notice, 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 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 you were eligible to receive an advance premium tax credit of up to \$254.00 per month and cost sharing reductions, effective April 1, 2015.

The record shows that your application was updated on February 24, 2015. This resulted in the February 25, 2015 and February 26, 2015 eligibility determinations that stated you were eligible to receive up to \$254.00 in APTC per month, and if you enrolled in a silver level health plan, eligible to receive cost-sharing reductions. This eligibility was effective April 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 that change effective the first day of the next following month.

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Therefore, the Marketplace's February 25, 2015 and February 26, 2015 eligibility determinations are AFFIRMED insofar as they properly began your eligibility for APTC and cost-sharing reductions on April 1, 2015.

However, when APTC is recalculated mid-year, the Marketplace is required to consider APTC that has already been received, and to ensure that the APTC you receive during the rest of the year results in your receiving advance credits in an amount 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 nine months of 2015.

## **Decision**

The December 22, 2014 eligibility determination is AFFIRMED.

The February 25, 2015 and February 26, 2015 eligibility determinations are MODIFIED to reflect that you are tentatively eligible to receive up to \$254.00 per month in APTC, and AFFIRMED in all other respects. Your case is returned to the Marketplace to determine the total annual premium tax credit 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 the amount of APTC you have already received, and how many more months this year 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 nine months of 2015.

**Effective Date of this Decision:** August 21, 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 April 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.

## **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 December 22, 2014 eligibility determination is **AFFIRMED**.

The February 25, 2015 and February 26, 2015 eligibility determinations are **MODIFIED** to reflect that you are tentatively eligible to receive up to \$254.00 per month in APTC, and **AFFIRMED** in all other respects. Your case is returned to the Marketplace to determine the total annual premium tax credit you are

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currently expected to be entitled to when you file your tax return for 2015, and then to recalculate the monthly APTC based on the amount of APTC you have already received, and how many more months this year 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 nine months of 2015.

This is not a final determination as to the amount of APTC you were entitled to as of April 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:**

