



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: AP000000002001

[REDACTED]

Dear [REDACTED],

On April 10, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 2, 2014 eligibility determination.

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).

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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002001



## Issues

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

Did the Marketplace properly determine that you were eligible to receive up to \$306.00 per month in advance premium tax credits?

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

Did the Marketplace properly determine that you were not eligible for a special enrollment period?

## Procedural History

On December 1, 2014, the Marketplace received your initial application for health insurance.

On December 2, 2014, the Marketplace issued an eligibility determination notice, stating that you were eligible to receive an advance premium tax credit (APTC) amount of up to \$306.00 per month and, if you enrolled in a silver level health plan, cost-sharing reductions (CSR).

On December 18, 2014, the Marketplace issued an enrollment confirmation notice that stated you were enrolled in Healthfirst Silver with a premium responsibility of \$94.37.

On March 11, 2015, you spoke with the Marketplace's Account Review Unit and appealed the eligibility determination as it relates to the amount of APTC you

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were eligible for and to request a special enrollment period in order to change your health plan.

On March 12, 2015, the Marketplace issued a notice acknowledging your appeal request. The notice states that the reason for the appeal was the level of APTC and cost sharing reductions, and the denial of a special enrollment period.

On April 10, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing but before the Hearing Officer could ask you to submit documentation to support your testimony you terminated the phone call. You did not answer when the Hearing Officer attempted to call you back. The record is now closed.

## **Findings of Fact**

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

- 1) On the application you submitted on December 1, 2014, you attested that you would be filing your taxes with a tax filing status of Head of Household (with qualifying individual). There are no dependents or children listed on the application.
- 2) At the hearing, you testified that you plan on filing your taxes with a tax filing status of Head of Household and you will claim your 28 year old son as a dependent on your tax return.
- 3) On the application you submitted on December 1, 2014, you attested to an expected yearly income of \$18,330.00.
- 4) At the hearing, you testified that you received a small raise and you now anticipate making \$21,500.00 in 2015.
- 5) At the hearing, you testified that the son you plan on claiming as a dependent is currently unemployed and anticipates receiving \$0.00 in income in 2015.
- 6) At the hearing, you testified that you would not be taking any deductions on your income tax return.
- 7) Your application states that you reside in New York County.
- 8) At the hearing, you testified that you would like to be granted a special enrollment period to change your health plan because the plan you enrolled in is too expensive and your doctor accepts a less expensive plan that you would like to switch to.

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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)).

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-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 (78 Fed. Reg. 5182, 5183).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution for the 2015 tax year is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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### 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)).

### Special Enrollment Periods

The Exchange must provide an initial open enrollment period and annual open enrollment periods during which time qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR §155.410(a)).

After the open enrollment period is over, the Exchange must provide special enrollment periods. During a special enrollment period qualified individuals may enroll in QHPs and enrollees may change QHPs. The Exchange must allow a qualified individual or enrollee, and, when specified below, his or her dependent, to enroll in or change from one QHP to another if a triggering event occurs. The triggering events that permit the Marketplace to grant a special enrollment period are detailed in the federal regulation (45 CFR § 155.420(d)).

A triggering event includes when the enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions. (45 CFR § 155.420(d)(6)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$306.00 per month.

In the application you submitted on December 1, 2014, you attested that you will be filing your taxes with a tax filing status of Head of Household (with qualifying individual). However, there were no dependents or children listed on that application. Also on the application you submitted that day, you attested to an expected yearly income of \$18,330.00. The eligibility determination relied upon that information and calculated your eligibility based on a household of one person with a household income of \$18,330.00.

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 \$18,330.00 is 157.07% of the 2014 Federal Poverty Level (FPL) for a one-person household. At 157.07% of the FPL, the expected

contribution to the cost of the health insurance premium is 4.35% of income, or \$66.45 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 (\$66.45 per month), which equals \$305.30 per month. Therefore, rounding up to the nearest dollar, the Marketplace correctly determined your APTC to be up to \$306.00 per month.

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 \$18,330.00 is 157.07% of the 2014 FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

Since the December 2, 2014 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$306.00 per month, and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

However, at the hearing you testified to a household income that was different than the amount listed in your application at the time of the December 2, 2015 eligibility determination. You testified that you now anticipate earning \$21,500.00.

Therefore, your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on a household of one person, an annual household income of \$21,500.00, and a county of residence of New York County.

Since we are returning your case for a redetermination of your eligibility for APTC, there is no need to discuss the issue of whether or not you were properly denied a special enrollment period to switch your health plans. If the Marketplace issues a new redetermination, you may elect at that time to switch health plans if you so choose.

Additionally, at the hearing you testified that you are going to claim your adult son as a dependent on your tax return. Your application as it is now contains no information about your son. If you would like him to be added to your application and thus considered as part of your household for purposes of determining your eligibility for financial assistance, please contact the Marketplace and provide his information.

## **Decision**

The December 2, 2014 eligibility determination is AFFIRMED.

Your case is being RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on a household of one person, an annual household income of \$21,500.00, and a county of residence of New York County.

**Effective Date of this Decision:** August 21, 2015

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

This is not a final determination of your eligibility for financial assistance.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for financial assistance based on a household of one person, an annual household income of \$21,500.00, and a county of residence of New York County.

If you would like your son to be added to your application and thus considered as part of your household for purposes of determining your eligibility for financial assistance, please contact the Marketplace and provide his 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.

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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  
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## **Summary**

The December 2, 2014 eligibility determination is **AFFIRMED**.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for financial assistance based on a household of one person, an annual household income of \$21,500.00, and a county of residence of New York County.

If you would like your son to be added to your application and thus considered as part of your household for purposes of determining your eligibility for financial assistance, please contact the Marketplace and provide his 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:**

