



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: AP000000002017

[REDACTED]

Dear [REDACTED],

On April 14, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 27, 2015 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 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

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002017

[REDACTED]

## 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 \$90.00 per month in advance premium tax credit (APTC)?

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

## Procedural History

On February 26, 2015, the Marketplace received multiple modified applications for health insurance.

On February 27, 2015, the Marketplace issued an eligibility determination notice, stating that you were eligible to receive up to \$90.00 per month in advance premium tax credits (APTC) and, if you enrolled in a silver level health plan, cost-sharing reductions. This eligibility was effective April 1, 2015.

Also on February 27, 2015, the Marketplace issued an enrollment confirmation notice, stating that you had been enrolled in a qualified health plan (QHP). The total cost of that plan was \$394.34; your responsibility was \$304.34.

On March 12, 2015, you spoke with the Marketplace's Account Review unit and appealed that eligibility determination with regard to the amount of APTC you were found eligible for.

On April 14, 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) The record reflects that you turned 21 years old on [REDACTED].
- 2) You testified that you plan on filing your 2015 tax return as single. You will claim no dependents on that tax return.
- 3) In the last application that was submitted on February 26, 2015 you attested to an annual household income of \$18,000.00.
- 4) You testified that you expect to make \$18,000.00 in income in 2015.
- 5) You testified that you do not plan on taking any deductions on your 2015 tax return.
- 6) You testified that you reside in Bronx County.
- 7) You testified that all of the plans that were available to you were very expensive compared to the amount of advance premium tax credit (APTC) you were eligible for.

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

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- 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).

If a qualified health plan is offered through the Marketplace in any level of coverage, the Marketplace must also offer a qualified health plan in which the only enrollees are individuals who, as of the beginning of a plan year (whether calendar year or otherwise), have not attained the age of 21 (42 U.S. Code § 18022(f)).

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 150% but less than 200% of the 2014 FPL, the expected contribution 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).

### 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

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$90.00 per month, effective April 1, 2015.

In the application that was submitted on February 26, 2015, you attested to an expected yearly household income of \$18,000.00, and the eligibility determination relied upon that information. You also confirmed through your testimony, that your annual expected income for 2015 is \$18,000.00.

According to the record there is one person in your household. You plan on filing your 2015 tax return as single and will claim no dependents on that tax return.

You reside in Bronx County. At the time of your application, you were under the age of 21 and thus the premium for a child only plan was used to calculate your eligibility. The second lowest cost silver plan available for a child through the Marketplace in Bronx County costs \$153.16 per month.

An annual income of \$18,000.00 is 154.24% of the 2014 Federal Poverty Level (FPL) for a one-person household. At 154.24% of the FPL, the expected contribution to the cost of the health insurance premium is 4.22% of income, or \$63.45 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 a child in your county (\$153.16 per month) minus your expected contribution (\$63.45 per month), which equals \$89.71. Therefore, rounding up to the nearest dollar, the Marketplace correctly determined your APTC amount to be up to \$90.00 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 \$18,000.00 is 154.24% of the 2014 FPL for a one-person household, the Marketplace correctly found you to be eligible for cost-sharing reductions if you enroll in a silver level health plan.

Since the February 27, 2015 eligibility determination properly stated that you were eligible for APTC of up to \$90.00 per month and eligible for cost-sharing reductions, it is correct and is **AFFIRMED**.

However, the record indicates that at the time of the February 27, 2015 eligibility determination you were only offered individual plans meant for an adult, which carry higher premium costs. Since you were only able to select an adult individual plan and since you are now 21 years old, your APTC eligibility should have been calculated using the second lowest cost silver plan in your county for

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an adult individual. Therefore, your case is RETURNED to the Marketplace for a redetermination of your eligibility based on a household of one person, seeking an individual adult plan Bronx County with an expected household income of \$18,000.00.

## **Decision**

The February 27, 2015 eligibility determination is AFFIRMED.

However, your case is RETURNED to the Marketplace for a redetermination of your eligibility based on a household of one person, seeking an individual adult plan in Bronx County with an expected household income of \$18,000.00.

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

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

This is not a final determination of your eligibility.

Your case is being sent back to the Marketplace for a redetermination of your eligibility based on a household of one person, seeking an individual adult plan in Bronx County with an expected household income of \$18,000.00.

## **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

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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):**

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The February 27, 2015 eligibility determination is **AFFIRMED**.

This is not a final determination of your eligibility.

Your case is being sent back to the Marketplace for a redetermination of your eligibility based on a household of one person, seeking an individual adult plan in Bronx County with an expected household income of \$18,000.00.

## **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:**

