



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

## Notice of Decision

Decision Date: July 3, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002030

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On April 14, 2015, you appeared by telephone on behalf of your wife at a hearing on your appeal of NY State of Health Marketplace's March 14, 2015 eligibility redetermination.

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: AP000000002030

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly determine that your wife was eligible for an advance premium tax credit of \$0.00 per month and ineligible for cost-sharing reductions as of March 13, 2015?

## Procedural History

On December 11, 2014, the Marketplace received your application for health insurance in 2015 for your wife.

On December 12, 2014, the Marketplace issued a notice of eligibility redetermination that, based on your household's reported income of \$60,594.96, your wife is eligible for advance premium tax credits (APTC) of \$0.00 per month and ineligible for cost-sharing reductions (CSR) effective January 1, 2015.

On March 13, 2015, you modified your Marketplace application.

That same day, the Marketplace prepared a preliminary eligibility redetermination that, based on your updated household income of \$61,357.80, your wife is eligible to receive APTC of \$0.00 per month and ineligible for CSR, effective April 1, 2015.

Also that same day, you spoke with a representative from the Marketplace's Account Review Unit and appealed the eligibility determination insofar as the APTC to which

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your wife was entitled was \$0.00 and plans were unaffordable without financial assistance.

On March 14, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the March 13, 2015 preliminary redetermination.

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 was held open for up to fifteen days for you to submit proof of income.

As of the close of Business on April 29, 2015, the Marketplace's Appeals Unit had not received any documents from you and none had been uploaded to your Marketplace account. Accordingly, the record was closed that same day and the decision is based on the record as developed at the hearing.

## **Findings of Fact**

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

- 1) According to your Marketplace application, your household consists of you, your wife, and your daughter, whom you listed as a dependent.
- 2) You testified that you and your wife expect to file your 2015 tax return as Married Filing Jointly and you do not expect to claim anyone as a dependent for the 2015 tax year.
- 3) You testified that you expect your 2015 household income to be \$59,488.80, which consists of your Title II benefits of \$19,246.80, your wife's Title II benefits of \$7,010.00 and pension funds of \$33,232.00.
- 4) According to your Marketplace account, your wife's Title II benefits were reported as \$8,556.00 annually.
- 5) You currently reside in Onondaga County, New York.
- 6) You testified that you cannot afford to pay for health insurance for your wife without financial assistance.

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 2014 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 the 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).

### 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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- 2) the taxpayer's expected contribution amount

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(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 \$23,850.00 for a three-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 300% but less than 400% of the 2014 FPL, the expected contribution is 9.56 % of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

### 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)).

### Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or

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(3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

If your wife wishes to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, you can consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for information and an application.

## **Legal Analysis**

At issue is whether the Marketplace properly determined that your wife was eligible for an advance premium tax credit (APTC) of \$0.00 per month and ineligible for cost-sharing reductions (CSR).

In the application that was updated on March 13, 2015, you attested to an expected yearly income of \$61,357.80, which is the sum of your attested Title II benefits (\$19,570.80), your wife's Title II benefits (\$8,556.00), and your pension earnings (\$33,231.00). The eligibility determination relied upon that information.

According to your Marketplace application at the time of the eligibility redetermination, there are three people in your tax household, you, your wife and your daughter, whom you listed as a dependent.

You reside in Onondaga County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$285.13 per month.

An annual income of \$61,357.80 is 310.04% of the 2014 federal poverty level (FPL) for a three-person household. At 310.04% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$488.82 per month.

The maximum amount of advance premium tax credit that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$285.13 per month) minus your expected contribution (\$488.82 per month), which equals a negative balance of \$203.69 per month. Since your expected contribution amount exceeds the APTC amount to which your wife would be entitled, the Marketplace correctly determined the APTC to be \$0.00 per month.

However, you credibly testified that your tax household actually only consists of you and your wife and your annual income is expected to be \$59,488.80. Even with a two-person household and an income of \$59,488.80, the amount of APTC would still be

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\$0.00. This is because an annual income of that amount for a two-person household using the 2014 FPL of \$15,730.00 equals 378.19% of the 2014 FPL. At this percentage your expected contribution remains at 9.56% of income, or \$473.93 per month, which is still greater than the monthly cost of the second lowest cost silver plan of \$285.13 in your county.

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 \$61,357.80 is 310.04% of the 2014 FPL, the Marketplace correctly found your wife to be ineligible for cost-sharing reductions.

This is also true for a two-person household and an expected household income of \$59,488.80, which equals 378.19% of the 2014 FPL.

## **Decision**

The March 14, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** July 3, 2015

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

This decision does not change your wife's eligibility.

As of March 14, 2015, she was eligible for an advance premium tax credit of \$0.00 per month and ineligible for cost-sharing reductions, effective April 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.

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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 March 14, 2015 eligibility determination is AFFIRMED.

This decision does not change your wife's eligibility.

As of March 14, 2015, she was eligible for an advance premium tax credit of \$0.00 per month and ineligible for cost-sharing reductions, effective April 1, 2015.

If your wife is interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)).

## **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]