



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

## Notice of Decision

Decision Date: July 8, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002037

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On April 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 8, 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: AP000000002037

[REDACTED]  
[REDACTED]  
[REDACTED]

## 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 advance premium tax credits as of January 1, 2015, because your renewal period and income data were not available at the time of the determination?

Did the Marketplace properly determine that, effective February 1, 2015, you and your spouse were eligible to receive up to \$463.00 of advance premium tax credits and, if you select a silver-level qualified health plan, for cost-sharing reductions as of January 8, 2015?

## Procedural History

On November 6, 2014 and again on November 20, 2014, the Marketplace issued notices that stated it was time to renew your family's health insurance coverage for 2015. Both notices stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you and your family members 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 by December 15, 2014.

On December 22, 2014, the Marketplace issued a notice of eligibility redetermination that stated you and your spouse were newly eligible to purchase a qualified health plan at full cost effective January 1, 2015. The notice also stated that you were not eligible to

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receive advance premium tax credits (APTC) because “renewal period and income data [was] not available” and not eligible for cost-sharing reductions (CSR) because you were ineligible to receive APTC. It also stated that you were not eligible for Medicaid because your household income was in excess of the allowable income limit for that program.

On December 23, 2014, the Marketplace issued an enrollment confirmation notice that stated, you and your spouse were enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep25 with a premium responsibility of \$759.58. The notice further stated that if you have a premium responsibility, you must pay the monthly premium before your coverage can begin. If you do not pay your premium, you may not have health coverage.

On January 5 and 7, 2015, information in your Marketplace account was updated.

On January 8, 2015, the Marketplace issued a notice of eligibility redetermination that stated you and your spouse were eligible to receive up to \$463.00 in APTC per month, and to receive CSR if you enrolled in a silver level health plan, effective February 1, 2015.

Also on January 8, 2015, the Marketplace issued an enrollment confirmation notice that on January 7, 2015, you and your spouse selected and were enrolled in Fidelis Care Silver ST INN Pediatric Dental Dep25 with a premium responsibility of \$296.58 after the monthly APTC of \$463.00 was applied. The notice further stated that if you have a premium responsibility, you must pay the monthly premium before your coverage can begin and it could start as early as February 1, 2015. If you do not pay your premium, you may not have health coverage.

On March 13, 2015, you spoke to the Marketplace’s Account Review Unit and appealed the eligibility determination insofar as your and your spouse’s eligibility for financial assistance (APTC) did not begin January 1, 2015.

On April 23, 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 your Marketplace account reflects that you and your spouse were enrolled in Fidelis Care Silver last year, beginning October 1, 2014 through December 31, 2014, and your maximum monthly advance premium tax credit (APTC) amount of \$561.00 was applied each month.

- 2) According to your Marketplace account and your testimony at hearing, you did not elect to receive your notices from the Marketplace via electronic mail and receive notices from the Marketplace via regular mail.
- 3) You testified that you were not aware and did not receive any notices that you had to update your application for your health insurance coverage to renew for 2015, so you didn't do anything.
- 4) You testified that you received a bill from Fidelis Care in the first week of January 2015 for for the full premium amount of between \$700.00 and \$800.00 for January 2015, which prompted you to contact Fidelis Care.
- 5) You testified that a representative from Fidelis Care told you the Marketplace had not sent the "834 file" to tell them what your APTC was for 2015.
- 6) You testified that, although you protested the January 2015 premium amount, you paid it on time so you and your wife would not have a gap in coverage.
- 7) You testified that you contacted the Marketplace and reported an increase in income, which resulted in the eligibility redetermination made on January 7, 2015 and the notice issued on January 8, 2015 for APTC to be applied for February 2015.
- 8) You testified that you would like to have your maximum APTC amount of \$463.00 to be applied to your and your spouse's health insurance premium for January 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 information by which the Marketplace will use to redetermine a qualified individual's eligibility for that

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year (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). 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(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has chosen to do so.

### End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

## **Legal Analysis**

The first issue is whether or not you and your spouse should be eligible for advance premium tax credit (APTC) effective January 1, 2015.

The Marketplace must redetermine qualified couple'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 information that the Marketplace will use to determine a couple's eligibility. 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 and again on November 20, 2014, the Marketplace issued annual renewal notices in your case. Those notices stated in part that, based on information from federal and state sources, the Marketplace could not make a decision about whether or not you and your spouse qualify for financial help paying for your health coverage. You were asked to update the information in your NY State of Health

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account by December 15, 2014 or the financial help you and your spouse were receiving might end.

Although you stated that you had not received any renewal notices from the Marketplace, your Marketplace account indicates that both notices were issued and mailed to you and there is no indication that any mail was returned as undeliverable. Therefore, the notices are deemed to have been sent.

As of December 15, 2014, the Marketplace had not received any updated information from you. Therefore, the Marketplace did not have sufficient information from you to determine whether or not you and your wife qualified for financial help, such as APTC, in order to determine your eligibility for coverage beginning January 1, 2015. On December 22, 2014, the Marketplace issued a notice that stated you and your wife 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 by December 15, 2015. Therefore, the Marketplace's December 22, 2014 eligibility determination is AFFIRMED.

The second issue is whether the Marketplace properly determined that your and your spouse's eligibility for up to \$463.00 of APTC and cost-sharing reductions was effective February 1, 2015.

On January 7, 2015 you updated the information in your Marketplace account. This resulted in a January 8, 2015 notice of eligibility redetermination that stated you and your spouse were eligible to receive up to \$463.00 in APTC and, if you select a silver-level qualified health plan, for cost-sharing reductions (CSR). This eligibility was effective February 1, 2015.

When an individual changes information in their application before the 15<sup>th</sup> of any month, the Marketplace must make the redetermination that results from that change effective the first day of the following month. Since you selected a silver-level qualified health plan, Fidelis Care Silver ST INN Pediatric Dental Dep25, on January 7, 2015, the first day of the next following month for coverage to begin is February 1, 2015. Therefore, the Marketplace's January 8, 2015 eligibility redetermination was correct and is AFFIRMED.

Notwithstanding the foregoing, when you file your 2015 tax return, any differences in the amount of APTC to which you and your spouse were entitled in 2015 may be reconciled at that time. If you received less tax credit than your maximum entitlement, you may receive an income tax refund or owe less in taxes.

## **Decision**

The December 22, 2014 notice of eligibility redetermination is AFFIRMED.

The January 8, 2015 notice of eligibility redetermination notice is AFFIRMED.

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**Effective Date of this Decision:** July 8, 2015

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

You and your spouse were not eligible for an advance premium tax credit in the month of January 2015.

Your and your spouse's health insurance coverage with Fidelis Care Silver plan at full cost was effective January 1, 2015.

You and your spouse are eligible to share up to \$463.00 monthly of advance premium tax credit and cost sharing reductions under your Fidelis Care Silver ST INN Pediatric Dental Dep25 plan, effective February 1, 2015.

This Decision does not address nor affect any subsequent eligibility determinations or redeterminations made by the Marketplace.

## **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  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The December 22, 2014 notice of eligibility redetermination is AFFIRMED.

The January 8, 2015 notice of eligibility redetermination notice is AFFIRMED.

You and your spouse were not eligible for an advance premium tax credit in the month of January 2015.

Your and your spouse's health insurance coverage with Fidelis Care Silver plan at full cost was effective January 1, 2015.

You and your spouse are eligible to share up to \$463.00 monthly of advance premium tax credit and cost sharing reductions under your Fidelis Care Silver ST INN Pediatric Dental Dep25 plan, effective February 1, 2015.

This Decision does not address nor affect any subsequent eligibility determinations or redeterminations made by the Marketplace.

## **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]