



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

## Notice of Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002068

[REDACTED]

Dear [REDACTED]

On April 15, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 6, 2014 eligibility determination.

The attached 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 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]  
Appeal Identification Number: AP000000002068



## Issues

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

Did the Marketplace properly determine that you are eligible to receive an advance premium tax credit of up to \$98.00 per month, effective January 1, 2015?

Did the Marketplace properly determine that you are ineligible for cost-sharing reductions effective January 1, 2015?

## Procedural History

The Marketplace received your application for health insurance on November 23, 2014, in which you attested to an expected yearly income of \$40,000.00.

On December 6, 2014, the Marketplace issued a notice of eligibility determination based on your November 23, 2014 application. It said that you were eligible to enroll in a qualified health plan (QHP) and eligible to receive an advance premium tax credit (APTC) of up to \$98.00 per month. You were not eligible for cost-sharing reductions or Medicaid. Your daughter was found eligible for coverage under Child Health Plus (CHP) at a premium of \$30.00 per month.

On March 16, 2015, you spoke with the Marketplace Account Review unit to appeal the December 6, 2014 eligibility determination insofar as you were found eligible for an APTC no greater than \$98.00 per month.

On April 15, 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 that you are unmarried and live with your daughter.
- 2) You testified, and your application indicates, that you expect to file your 2015 taxes as "head of household" and claim your daughter as your sole dependent.
- 3) You reside in Westchester County, New York.
- 4) You testified, and your application indicates, that you expect to earn approximately \$40,000.00 from your employer during 2015.
- 5) You testified that while you were satisfied with your child's CHP coverage, your coverage through the Marketplace is unaffordable even after applying the full amount of APTC you are eligible to receive.
- 6) You testified that without an increase in APTC, you won't be able to pay for medical insurance through the Marketplace.

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), 45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% 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 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

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expense of purchasing health coverage under a QHP; or (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)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you are eligible to receive up to \$98.00 per month in advance premium tax credit (APTC).

In the application that was submitted on November 23, 2014, you attested to an expected yearly income of \$40,000.00, and the eligibility determination relied upon that information.

According to the record, you are in a two-person tax household since you expect to file a 2015 U.S. Income Tax return, file as “head of household,” and claim your daughter as your sole dependent.

You reside in Westchester County, where the second lowest cost silver plan that is available through the Marketplace for an individual costs \$372.40 per month.

An annual household income of \$40,000.00 is 254.29% of the 2014 FPL for a two-person household. At 254.29% of the FPL, the expected contribution to the cost of the health insurance premium is 8.23% of income, or \$274.18 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$372.40 per month) minus your expected contribution (\$274.18 per month), which equals \$98.22 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly found you eligible for an APTC of up to \$98.00 per month.

The final issue is whether the Marketplace properly determined that you are ineligible for cost-sharing reductions (CSR).

CSRs are available to a person who has a household income no greater than 250% of the 2014 FPL. Since your household income is 254.29% of the 2014 FPL, you were correctly found to be ineligible for CSR.

Since the December 6, 2014 eligibility determination stated that you were eligible for APTC of up to \$98.00 per month and ineligible for CSR, it is correct and is **AFFIRMED**.

You testified that you cannot afford to pay the monthly insurance premium even if you have an advance premium tax credit and cost-sharing reductions because your expenses exceed your income. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance during 2015, you can check the Federal marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

## **Decision**

The December 6, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** August 27, 2015

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

You continue to be eligible to receive an APTC of up to \$98.00 per month.

You are not eligible for CSR.

## **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):**

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## **Summary**

The December 6, 2014 eligibility determination is AFFIRMED.

You continue to be eligible to receive an APTC of up to \$98.00 per month.

You are not eligible for CSR.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).



**A Copy of this Decision Has Been Provided To:**

