



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: AP000000002191

[REDACTED]

Dear [REDACTED],

On May 1, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 15, 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 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

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002191

[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 \$28.00 per month in advance premium tax credit, effective March 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

## Procedural History

On February 14, 2015 the Marketplace received your modified application for health insurance.

On February 15, 2015 the Marketplace issued an eligibility determination notice. That notice stated that you were conditionally eligible to receive up to \$28.00 per month in advance premium tax credits (APTC). You were not eligible for cost-sharing reductions or Medicaid because your income was over the allowable limits for those programs. The notice further requested that you submit additional information to confirm your income and immigration status by May 17, 2015.

On March 25, 2015 you spoke with the Marketplace's Account Review Unit and appealed that eligibility determination.

On May 1, 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.

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## Findings of Fact

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

- 1) On the application you submitted on February 14, 2015, you attested that you will be filing your taxes with a tax filing status of single. There are no dependents or children listed on the application.
- 2) At the hearing, you testified that you had recently married, and that you now plan on filing your 2015 taxes with a tax filing status of married filing jointly with your spouse.
- 3) On the application you submitted on February 14, 2015, you attested to an expected yearly income of \$43,200.00. You testified that this amount was correct.
- 4) At the hearing, you testified that you are not sure if you or your spouse would take any deductions on your 2015 tax return.
- 5) Your application states that you reside in Richmond County.

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 line (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 the 2015 tax year 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).

For annual household income in the range of at least 300% but less than 400% of the 2015 FPL, the expected contribution for the 2015 tax year is 9.56% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR § 155.300(a)).

#### Cost-sharing reductions

Cost-sharing reductions 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 APTC of up to \$28.00 per month.

In the application you submitted on February 14, 2015, you attested that you will be filing your 2015 taxes with a tax filing status of single and that you will claim no dependents on that tax return. Also on the application you submitted that day, you attested to an expected yearly income of \$43,200.00. The eligibility determination relied upon that information and calculated your eligibility based on a household of one person with a household income of \$43,200.00.

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

An annual income of \$43,200.00 is 370.18% of the 2014 FPL for a one-person household. At 370.18% of the FPL, the expected contribution to the cost of the health insurance premium is 9.56% of income, or \$344.16 per month.

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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 (\$372.40 per month) minus your expected contribution (\$344.16 per month), which equals \$28.24 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be up to \$28.00 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 \$43,200.00 is 370.18% of the 2014 FPL, the Marketplace correctly found you to be not eligible for cost sharing reductions.

Since the February 15, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for APTC of up to \$28.00 per month, and not eligible for cost-sharing reductions, it is correct and is **AFFIRMED**.

However, at the hearing you testified that you were recently married and that you now expect to file your 2015 tax return as married filing jointly. Since your household composition has changed, you may be eligible for a different amount of APTC than what you were found eligible for in the February 15, 2015 eligibility determination.

Therefore, your case is being **RETURNED** to the Marketplace for outreach so that the Marketplace may obtain additional information from you about your spouse and her income in order to properly redetermine your eligibility.

## **Decision**

The February 15, 2015 eligibility determination is **AFFIRMED**.

Your case is being **RETURNED** to the Marketplace for outreach so that the Marketplace may obtain additional information from you about your spouse in order to properly redetermine your eligibility.

**Effective Date of this Decision:** August 27, 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 to allow you the opportunity to submit additional information about your spouse so that your eligibility can be properly redetermined based on your updated household composition.

## **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.

## **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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Albany, NY 12211
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## **Summary**

The February 15, 2015 eligibility determination is AFFIRMED.

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

Your case is being sent back to the Marketplace to allow you the opportunity to submit additional information about your spouse so that your eligibility can be properly redetermined based on your updated household composition.

## **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:**

