



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

## Notice of Decision

Decision Date: July 28, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002346

[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED]

Dear [REDACTED],

On May 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 28, 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

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[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly determine that you, your spouse and eldest child (age 19) are eligible to receive up to \$544.00 monthly of advance premium tax credit (APTC) and not eligible for cost-sharing reductions as of February 28, 2015?

Did the Marketplace properly determine that your youngest children (ages 12 and 17) were eligible for Child Health Plus with a \$30.00 monthly premium as of February 28, 2015?

## Procedural History

On February 28, 2015, the Marketplace issued an eligibility determination notice stating that you, your spouse and eldest child (age 19) are eligible to receive up to \$544.00 monthly of advance premium tax credits and not eligible for cost-sharing reductions. The notice stated your children (ages 12 and 17) were eligible to enroll through Child Health Plus with a \$30.00 premium per month.

On April 9, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal insofar as the amount of financial assistance you, your spouse and children were determined eligible to receive.

On May 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken during the hearing and the record was developed. The record is now complete and closed.

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## Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself, your spouse and three children.
2. You testified that you plan on filing a 2015 federal income tax return with the tax status of married filing jointly and will claim your nineteen, seventeen and twelve-year-old children as dependents on that tax return.
3. According to your February 27, 2015 Marketplace application, your 2015 expected annual household income is \$73,200.00.
4. You testified that you are currently employed and have an expected 2015 income of \$55,000.00.
5. You testified that your spouse is currently employed and has an expected 2015 income of \$18,200.00.
6. You currently reside in Queens County, NY.
7. On March 14, 2015, you enrolled yourself, your spouse and eldest child in Fidelis Care qualified health plan (QHP) and your two youngest children in Fidelis Care Child Health Plus.
8. You testified that you contacted Empire BlueCross BlueShield (Empire) in April 2015. You received a quote of \$122.65 for the total cost of a medical and dental plan through Empire for your entire family.
9. On April 6, 2015, you uploaded a screenshot to your Marketplace account of the medical and dental plan quote for your entire family through Empire.
10. You testified that you contacted the Marketplace the same day you spoke to the Empire representative to change health plans. However, the Marketplace refused to honor the price quote for the medical and dental plans through Empire.

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 is available to a person who is eligible to enroll in a qualified health plan 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 qualified health plan (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 advance premium tax credit (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).

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 (see 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 benefit year for which coverage is requested. (45 CFR § 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$27,910.00 for a five-person household (79 Fed. Reg. 3593, 3593).

### 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 advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent 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)).

### Child Health Plus

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).

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health L. § 2511(2)(a)-(e))

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in Child Health Plus depends upon the child's family household income (N.Y. Pub. Health L. § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the federal poverty level. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (N.Y. Pub. Health L. § 2510(9)(d)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined you, your spouse and eldest child eligible for up to \$544.00 monthly of advance premium tax credit (APTC).

According to the record, you have a five-person tax household. You expect to file your 2015 federal income tax return with the tax status of married filing jointly and will claim three dependents on that return.

You reside in Queens County, where the second lowest cost silver plan that is available through the Marketplace for a couple and one dependent costs \$1,059.49 per month.

The February 28, 2015 eligibility determination was based on an annual household income of \$73,200.00, which was the amount you entered as your total household's expected annual income for 2015.

An annual household income of \$73,200.00 equals 262.27% of the 2014 federal poverty level (FPL) for a five-person household. At 262.27% of the FPL, the expected contribution to the cost of the health insurance premium is 8.46% of income, or \$516.06 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$1059.90 per month) minus your

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expected contribution (\$516.06 per month), which equals \$543.84 per month. Therefore, the Marketplace correctly computed your APTC to be \$544.00 per month.

The second issue is whether the Marketplace properly determined you, your spouse and eldest child not eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 262.27% of the FPL for purposes for APTC and cost-sharing reductions, you were correctly found not eligible for cost-sharing reductions.

The third issue is whether the Marketplace properly determined your two youngest children eligible to enroll in Child Health Plus (CHP) with a \$30.00 monthly premium.

A child who meets the eligibility requirements for CHP coverage may be eligible for subsidized premiums if the household income is at or below 400% of the FPL. No payments are required at a household income lower than 160% of the FPL, and premiums range from \$9.00 per month to \$60.00 per month between 160% and 400% of the FPL.

A household income between 251% and 300% of the FPL, the CHP premium is \$30.00 per child. Since an income \$73,200.00 is 257.66% of the 2015 FPL, the Marketplace correctly set the premium at \$30.00 monthly per child.

You testified that you contacted Empire in April 2015 and received a quote of \$122.65 for the total cost of a medical and dental plan through Empire for your entire family. On April 6, 2015, you uploaded a screenshot of the medical and dental plan quote for your entire family through Empire. You testified that you contacted the Marketplace the same day you spoke to the Empire representative to change health plans. However, the Marketplace refused to honor the price quote for the medical and dental plans through Empire.

There is no provision in the federal regulations that requires the Marketplace to honor a quote given by a health plan that participates in the Marketplace. The monthly cost of a qualified health plan through the Marketplace is based solely on the type of health plan chosen and the amount of advance of premium tax credits that the individuals are determined eligible to receive, which is described above.

Since the February 28, 2015 eligibility determination properly stated that, based on the information you provided: you, your spouse and eldest child are eligible for an APTC of up to \$544.00 per month and not eligible for cost-sharing reductions; your two youngest children eligible to enroll in CHP with a \$30.00 monthly premium, it is correct and is **AFFIRMED**.

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## **Decision**

The February 28, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** July 28, 2015

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

This decision does not change your eligibility.

You, your spouse and eldest child remain eligible to receive an advance premium tax credit of up to \$544.00 per month and not eligible for cost-sharing reductions.

Your two youngest children remain eligible to enroll in Child Health Plus with a \$30.00 monthly premium.

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

## **Summary**

The February 28, 2015 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You, your spouse and eldest child remain eligible to receive an advance premium tax credit of up to \$544.00 per month and not eligible for cost-sharing reductions.

Your two youngest children remain eligible to enroll in Child Health Plus with a \$30.00 monthly premium.

## **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] [REDACTED]  
[REDACTED]