



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

## Notice of Decision

Decision Date: November 13, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002429

[REDACTED]

Dear [REDACTED],

On July 30, 2015, you appeared by telephone at a hearing on your appeal of your eligibility for a health insurance exemption.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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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## Issues

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

Based on your interactions with NY State of Health, do you qualify for a health insurance exemption?

## Procedural History

On December 23, 2013, the Marketplace issued an eligibility determination that you and your spouse are eligible to enroll in a qualified health plan without a subsidy through the Marketplace.

On May 28, 2014, the Marketplace issued an eligibility determination notice that you and your spouse are eligible to receive up to \$219.00 of advance premium tax credit and cost-sharing reductions, if you enroll in a silver-level qualified health plan.

On August 12, 2014, the Marketplace issued an eligibility determination notice that you and your spouse are eligible to receive up to \$219.00 of advance premium tax credit and cost-sharing reductions, if you enroll in a silver-level qualified health plan. The notice also stated that you and your spouse “qualify to select a health plan outside of the open enrollment period.”

On January 19, 2015, the Marketplace issued a 2014 Form 1095-A Health Insurance Marketplace Statement.

On April 15, 2015, you spoke to the Marketplace Account Review Unit and requested an appeal for a health insurance exemption.

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On July 30, 2015, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing and the record was developed. The record is now complete and closed.

## **Findings of Fact**

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

1. You testified that you applied for you and your spouse for health insurance through the Marketplace in December 2013.
2. You testified that you were told by a Marketplace representative in December 2013, that you and your spouse would be able to change health plans throughout the year.
3. According to your Marketplace Account, you and your spouse were enrolled in a MetroPlus health plan through the Marketplace with a coverage start date of January 1, 2014.
4. According to your Marketplace Account, you and your spouse changed health plans to an Empire Blue Cross Blue Shield (Medical Downstate) with a coverage start date of April 1, 2014.
5. You testified that you and your spouse were disenrolled from your health plan in April 2014, but did not request to be terminated.
6. You testified that you contacted the Marketplace to re-enroll in a health plan.
7. On August 12, 2014, the Marketplace issued an eligibility determination notice stating that you and your spouse “qualify to select a health plan outside of the open enrollment period.”
8. You testified that you enrolled in an employer-sponsored-insurance in August 2014 with a coverage start date of September 1, 2014.
9. You testified that you filed your 2014 U.S. Income Tax Return, but has not been assessed a tax penalty.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Exemptions:

A shared responsibility payment may be imposed with respect to a non-exempt individual who does not maintain minimum essential coverage. However, an exemption may relieve an individual from the shared responsibility payment (45 CFR §155.600(a)).

An exemption may be granted to an applicant for at least before, a month or months during which, and the month after, if it is determined the individual(s) experienced circumstances that prevented them from obtaining coverage under a qualified health plan (45 CFR §155.605(g)(1)(iii)).

The Marketplace may adopt an exemption eligibility determination made by HHS for an exemption application that is submitted before the start of open enrollment for 2016 (45 CFR §155.625(b)).

## **Legal Analysis**

Based on the facts in the record and the appellant's testimony, the Appeals Unit finds that the NY State of Health Marketplace erred by not timely issuing an eligibility determination. Because of this error, we also find that the appellant did not enroll in a qualified health plan (QHP) during the 2014 plan year. Furthermore, the appellant testified had NY State of Health issued a timely eligibility determination, appellant would have re-enrolled in a QHP.

If this decision could affect a 2014 plan year enrollment, we would instruct NY State of Health to redetermine the appellant's eligibility in accordance with this decision. However, NY State of Health cannot redetermine the appellant's eligibility for the 2014 plan year since we are now in 2015. Nevertheless, the appellant may have other claims or remedies as a result of a finding that NY State of Health's error kept him from enrolling in coverage during 2014. We therefore issue this decision.

Sometimes after an appeal decision an appellant can claim an exemption from the requirement to have health insurance. If both of the following applied to you in [2014], you might qualify for a health coverage exemption:

- In 2014 you did not enroll in a QHP because of an appealable reason
- Your appeal was eventually successful

If this is accurate, you may not have to pay the fee for the months you were uncovered. If approved, your exemption generally also covers the month of the decision itself. It will not cover the month of the decision itself if the decision is in the next plan year. For example, you did not enroll during 2014 and we issue a decision in early 2015. In this case, your exemption would cover the months during 2014 you were uncovered but not the months in 2015.

**You must claim this exemption through the United States Department of Health and Human Services (HHS).** Currently, the NY State of Health marketplace cannot and will not accept hardship exemption applications.

You will find all of the information you need to claim the exemption due to an appeal decision at [www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal](http://www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal). You can also call 1-800-318-2596.

**Important:** If you do not get a response from HHS to your exemption application in time to file your tax return, write the word “pending” in column “c” and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

## **Decision**

This does not grant you an exemption for the shared responsibility payment.

You will find all of the information you need to claim the exemption due to an appeal decision at [www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal](http://www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal). You can also call 1-800-318-2596.

**Effective Date of this Decision:** November 13, 2015

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

This does not grant you an exemption for the shared responsibility payment.

You will find all of the information you need to claim the exemption due to an appeal decision at [www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal](http://www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal). You can also call 1-800-318-2596.

## **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.

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).

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**

This does not grant you an exemption for the shared responsibility payment.

You will find all of the information you need to claim the exemption due to an appeal decision at [www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal](http://www.healthcare.gov/exemptions-tool/#/results/details/eligible-based-on-appeal). You can also call 1-800-318-2596.

### **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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

