



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

## Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002458

[REDACTED]

Dear [REDACTED],

On May 14, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 1, 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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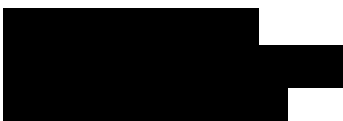


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## Decision

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## Issues

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

Did the Marketplace properly determine that you were eligible to receive up to \$186.00 monthly of advance premium tax credit?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

## Procedural History

The Marketplace received your updated application for health insurance on February 28, 2015.

On March 1, 2015 the Marketplace issued an eligibility determination notice stating that you are eligible to receive up to \$186.00 monthly in advance premium tax credits and if you selected a silver level health plan, cost-sharing reductions. Your children were determined eligible to enroll through Child Health Plus with a \$9.00 premium per month.

On April 17, 2015 you spoke to the Marketplace's Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible to receive.

On May 14, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was left open until May 15, 2015 in order for you to submit additional income documentation.

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On May 14, 2015 you uploaded your Official Record of Benefit Payment History of unemployment insurance benefits (UIB) to your Marketplace account. This was marked as "Appellant Exhibit A" and made part of the record. The record is now complete and closed.

## 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 and your two children.
2. Your children were found eligible to enroll in Child Health Plus with a monthly premium of \$9.00 each on March 1, 2015.
3. You testified that you plan on filing a 2015 federal income tax return with your spouse with the tax status of married filing jointly and will claim your two children as dependents on that return.
4. According to your February 28, 2015 Marketplace application, your 2015 expected annual household income is \$42,331.92. Based on that application you expected to receive \$10,920.00 in UIB and \$7,920.00 in additional income. Your spouse was expected to receive \$23,491.92 in earned income.
5. You testified and uploaded a statement to the Marketplace that you were laid off from [REDACTED] on January 8, 2015.
6. You uploaded your final pay and severance checks from [REDACTED] to your Marketplace Account. Your final check was received on February 27, 2015 with the year-to-date federal taxable wages of \$14,942.02 (Check No. A82675).
7. You uploaded your Official Record of Benefit Payment History for UIB from the New York Department of Labor. You were determined eligible to receive UIB with the effective date of February 16, 2015 with a weekly benefit amount of \$420.00 and maximum payable amount of \$10,920.00 (Appellant Exhibit A p.1).
8. Your 2015 payment history for UIB is as follows:
  - (a) \$420.00 for week ending 3/15/2015;
  - (b) \$420.00 for week ending 3/22/2015;
  - (c) \$420.00 for week ending 4/5/2015;
  - (d) \$105.00 for week ending 4/12/2015;

- (e) \$105.00 for week ending 4/19/2015;
  - (f) \$420.00 for week ending 4/26/2015;
  - (g) \$420.00 for week ending 5/03/2015;
  - (h) \$105.00 for week ending 5/10/2015
- (Appellant Exhibit A p.3).

9. You testified that you have been doing freelance work since being laid off and have received the following payments:

- (a) \$1,600.00 on March 11, 2015
- (b) \$1,145.00 on April 15, 2015
- (c) \$2,000.00 on April 30, 2015

10. You testified that your spouse is employed at [REDACTED] and receives consistent bi-weekly paychecks of \$978.83.

11. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.

12. You currently reside in Westchester County, NY.

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 the NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

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(see 26 USC § 36B, 26 CFR § 1.36B-3).

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 \$23,850.00 for a four-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 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)).

### Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan. Such an exemption may be granted if that person can show that 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 expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (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**

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

The March 1, 2015 eligibility determination was based on an annual household income of \$42,331.92, which was the amount entered as your total household's expected annual income for 2015 on your February 28, 2015 Marketplace application. Your 2015 household income was computed with the sum of (\$420.00 X 26) \$10,920.00 expected to receive in UIB and \$7,920.00 in

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additional income, with the addition of your spouse's expected yearly income of \$23,491.92.

However, the record does not support a determination based on a household income of \$42,331.92.

The record reflects that you were laid off from [REDACTED] on January 8, 2015. Your final pay and severance checks from [REDACTED] were uploaded to your Marketplace Account. The final check received from [REDACTED] was on February 27, 2015 with the year-to-date federal taxable wages of \$14,942.00.

The Official Record of Benefit Payment History of UIB was uploaded to your Marketplace account. You were determined eligible to receive \$420.00 weekly effective February 16, 2015 with a maximum payable amount of (\$420.00 X 26) \$10,920.00.

You testified that you have participated in intermittent freelance work since being laid off. The record indicates that you have received three payments for your freelance work in the amount of \$4,745.00 in 2015.

Based on the entirety of the record, your 2015 expected income is \$30,607.00.

Based on your credible testimony, your spouse is currently employed at [REDACTED] and earns a consistent bi-weekly paycheck of \$978.83. Therefore, your husband has an expected 2015 income of \$25,449.58.

Since the March 1, 2015 eligibility determination does not accurately reflect your 2015 household income, it is RESCINDED.

The case is REMANDED to the Marketplace to redetermine eligibility based on a household size of four and an expected 2015 household income of \$56,056.58.

## **Decision**

The March 1, 2015 eligibility determination is RESCINDED.

The case is REMANDED to the Marketplace to redetermine your eligibility based on a household size of four people and an expected 2015 household income of \$56,056.58.

**Effective Date of this Decision:** September 3, 2015

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

This decision does not change your eligibility.

Your case is returned to the Marketplace to redetermine your eligibility based on the corrected household information you provided.

The Marketplace will redetermine your household's eligibility and issue a new eligibility determination notice.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **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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- By fax: 1-855-900-5557

## **Summary**

The March 1, 2015 eligibility determination is **RESCINDED**.

This case is returned to the Marketplace. It will redetermine your eligibility with a household size of four people and an expected 2015 income of \$56,056.58. The Marketplace will then issue a new eligibility determination notice.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **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:**

