



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: AP000000002471

[REDACTED]

Dear [REDACTED]

On May 18, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 18, 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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## Issues

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

Did the Marketplace properly determine that you and your spouse were eligible to receive up to \$286.00 per month in advance premium tax credits?

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

## Procedural History

The Marketplace received your household's application for health insurance on April 17, 2015. The Marketplace prepared a preliminary eligibility determination stating that you and your spouse are eligible to receive up to \$286.00 per month in advance premium tax credits and if you enrolled in a silver level health plan, cost-sharing reductions. Your children were found eligible to enroll in Child Health Plus with a monthly premium of \$9.00 each.

On that same day you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as the monthly amount of advance premium tax credits you and your spouse were determined eligible to receive.

On April 18, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse are eligible to receive up to \$286.00 per month in advance premium tax credits and if you enrolled in a silver level health plan, eligible to receive cost-sharing reductions. You and your spouse were

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determined not eligible to receive Medicaid because your household income was over the allowable income limit for that program. The Marketplace also found your children eligible for Child Health Plus with a \$9.00 premium per month.

On May 18, 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 are applying for health insurance through the Marketplace for yourself, your spouse and three children.
2. You testified that you plan on filing your 2015 tax return with the tax status of married filing jointly, with your spouse, and will claim three dependents on your 2015 federal income tax return.
3. According to your April 17, 2015 Marketplace application, your 2015 expected annual household income is \$59,800.00.
4. Your spouse expects to earn \$59,800.00 in 2015.
5. You and your dependents do not expect to earn any income in 2015.
6. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.
7. You currently reside in Oswego 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)).

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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

(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), 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).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% 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 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**

The first issue is whether the Marketplace properly determined that you and your spouse are eligible for \$286.00 per month in advance premium tax credits.

In the application submitted on April 17, 2015 you attested to an expected yearly household income of \$59,800.00 and the eligibility determination relied upon that information.

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, with your spouse, and claim three dependents on that return.

You reside in Oswego County, where the second lowest cost silver plan that is available through the Marketplace for a couple costs \$626.85 per month.

An annual household income of \$59,800.00 equals 214.26% of the 2014 FPL for a five-person household. At 214.26% of the FPL, the expected contribution to the cost of the health insurance premium is 6.84% of income, or \$340.91 per month.

The maximum amount of advance premium tax credits that can be awarded equals the cost of the second lowest cost silver plan in your county (\$626.85 per month) minus your expected contribution (\$340.91 per month), which equals \$285.94 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your spouse's advance premium tax credit to be \$286.00 per month.

The second issue is whether the Marketplace properly determined that you and your spouse are 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 a household income of \$59,800.00 is 214.26% of the 2014 FPL, the Marketplace correctly found you and your spouse to be eligible for cost-sharing reductions.

Since the April 18, 2015 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for up to

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\$286.00 per month in advance premium tax credits and eligible for cost-sharing reductions, it is correct and is AFFIRMED.

## **Decision**

The April 18, 2015 eligibility determination is AFFIRMED.

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

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

This decision does not change your eligibility.

You and your spouse remain eligible to receive an advance premium tax credit of up to \$286.00 per month and eligible for cost-sharing reductions if you enroll in a silver level health plan.

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

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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:  
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### **Summary**

The April 18, 2015 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

You and your spouse remain eligible to receive an advance premium tax credit of up to \$286.00 per month and eligible for cost-sharing reductions if you enroll in a silver level health plan.

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:**

