



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

## NOTICE OF DISMISSAL – INVALID APPEAL REQUEST

Decision Date: September 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002583

[REDACTED]

Dear [REDACTED],

On December 24, 2013, the Marketplace preliminarily determined that, based on an expected 2014 income of \$30,524.00, you were eligible for advance premium tax credits of \$154.00 per month and for cost sharing reductions from January 1, 2014 to December 31, 2014.

The Marketplace did not issue a written notice of decision based on its December 24, 2013 preliminary eligibility determination.

On January 26, 2015, the Marketplace uploaded to your account the 2014 Form 1095-A, Health Insurance Marketplace Statement, showing that the monthly advance payment of premium tax credit during 2014 was \$154.00 per month, totaling \$1,848.00 for 2014.

On April 24, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the amount of advance premium tax credits you had received in 2014.

On June 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.

You testified that when you initially applied for health insurance through the Marketplace in 2013, you reported an expected 2014 annual income of \$30,524.00 based on your income in 2013 because you are a temporary employee and could only estimate your 2014 income. You testified that you did not know that you were going to make

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).

\$41,600.00 in 2014 until you received your W-2 statement and could not report this increase in income to the Marketplace. You testified that your tax preparer informed you that you owe money to the IRS because you received a larger tax credit than you should have in 2014. You would like to have the amount of tax credit you have to repay to the IRS reduced and are seeking assistance from the Marketplace.

In New York State, an enrollee is entitled to appeal a notice of eligibility determination within 60 days of the date of the notice of eligibility determination (45 CFR § 155.520(b); N.Y. Soc. Serv. Law § 22(4)(a)). Since the Marketplace only prepared a preliminary determination on December 24, 2013 and did issue a formal notice of your eligibility in 2014, your appeal is timely.

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

Your appeal was requested to see whether the Marketplace could assist with reducing the amount of advance premium tax credit you have to repay the IRS. The Marketplace does not have jurisdiction nor authority to rule on such matters. If your advance payments for the year are more than the amount of tax credit to which you are entitled, the law requires that you must repay the excess advance payments to the IRS (26 CFR § 1.36B-4). You credibly testified that you earned more than you had anticipated but did not report the increase in income to the Marketplace so that your APTC amount could be recalculated to reflect greater earnings and a lesser amount of tax credit per month in 2014. As a result, you received a larger tax credit than the amount to which you were entitled and you now owe the excess amount to the IRS. Since the issue raised on appeal is not one that the NY State of Health Appeals Unit is authorized to address, the Marketplace defers to the IRS.

## **How this Decision Affects Eligibility**

This Decision does not change your eligibility in 2014 and does not affect your tax liability for 2014.

## **If You Think Your Appeal Should Not Be Dismissed**

Under some circumstances, you can ask us to vacate (cancel) this dismissal. You must ask us in writing within 30 days after the date on this notice. In that writing you also must state a good reason for us to do this.

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).

If you ask us in writing to vacate this dismissal, the Marketplace's Appeals Unit will review your request and send you a decision on that request.

If we deny your request to vacate this dismissal, we will tell you that in writing.

If you do not respond to this notice within 30 days, your appeal will remain dismissed. No further action will be taken on it by the Marketplace.

## **Appeal Identification Number**

When communicating with the Marketplace about this appeal, please reference Appeal Identification Number at the top of this notice.

## **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

## **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.530.

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 Copy of this Decision Has Been Provided To:**

