



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

## Notice of Decision

Decision Date: July 24, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002671

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On June 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 13, 2015 notice of 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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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002671

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were eligible, and your child was conditionally eligible, to share up to \$501.00 per month in advance premium tax credits and cost-sharing reductions, effective April 1, 2015?

## Procedural History

On March 13, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible, and your child was conditionally eligible, to receive an advance premium tax credit of up to \$501.00 per month and, if you selected a silver level plan, cost-sharing reductions. This determination was based on an attested household income of \$28,600.00. You were directed to confirm citizenship status for your son.

On April 30, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it did not approve an advance premium tax credit of more than \$501.00 per month for yourself and your son.

On June 10, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open until June 15, 2015 to provide you an opportunity to submit supporting evidence.

Also on June 10, 2015, the Marketplace issued a notice of eligibility redetermination stating that you are conditionally eligible to receive an advance premium tax credit of up to \$183.00 per month and cost-sharing reductions. The

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record reflects that you have requested a separate appeal to review this determination.

On June 15, 2015, the Appeals Unit of NY State of Health received your supporting evidence, which included a copy of your child's passport, a copy of your permanent resident card, and a copy of two paystubs issued on May 11, 2015 and June 8, 2015. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record. The record was closed on June 15, 2015.

## **Findings of Fact**

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

- 1) According to the March 12, 2015 application for health insurance, you expect to file your 2015 federal income tax return as Single and claim your adult child as a dependent.
- 2) You testified that you no longer expect to claim your adult child as a dependent for the 2015 tax year.
- 3) You testified, and the record reflects, that you and your child were seeking health insurance through the Marketplace.
- 4) According to the March 12, 2015 application, you attested to an expected income of \$28,600.00 for the 2015 tax year. You testified that this is an accurate representation of your expected income for the 2015 tax year before taxes are deducted.
- 5) You provided evidence that you earned \$1,620.00 on May 11, 2015 before taxes were deducted, and \$1,703.00 on June 8, 2015 before taxes were deducted. According to the June 8, 2015 paystub, your year to date earnings were \$19,643.00 (Appellant's Exhibit 1).
- 6) You testified that you do not expect to take any deductions on your 2015 federal income tax return.
- 7) You testified, and the record reflects, that you reside in Kings County, NY.
- 8) On June 10, 2015, the Marketplace issued a notice of eligibility redetermination stating that you are conditionally eligible to receive an advance premium tax credit of up to \$183.00 per month and cost-sharing reductions. The record reflects that you have requested a separate appeal to review this determination.

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 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 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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

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## 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 plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that you and your child were eligible to receive an advance premium tax credit (APTC) of up to \$501.00 per month and cost-sharing reductions.

According to the March 12, 2015 application for health insurance, you expected to file your 2015 federal income tax return as Single, and claim your child as a dependent; therefore, you were in a two-person tax household.

According to the same application, you attested to an expected household income of \$28,600.00. The eligibility determination relied upon that information.

You reside in Kings County, where the second lowest cost silver plan available in 2015 for an individual and one dependent through the Marketplace costs \$631.98 per month.

An annual income of \$28,600.00 is 181.82% of the 2014 federal poverty level (FPL) for a two-person household. At 181.82% of the FPL, the expected contribution to the cost of the health insurance premium is 5.50% of income, or \$131.00 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual plus one dependent in your county (\$631.98 per month) minus your expected contribution (\$131.00 per month), which equals \$500.98 per month. Rounded to the nearest dollar, the Marketplace correctly determined you and your child's APTC to be \$501.00 per month.

Cost-sharing reductions are available to a person who is eligible to enroll in a qualified health plan (QHP) through the Marketplace, meets the requirements to receive APTC, is expected to have an annual household income that does not exceed 250% of the FPL for the plan year coverage is requested, and is enrolled in a silver-level QHP. Since you and your child are eligible to enroll in a QHP, qualify for APTC, and have a household income that does not exceed 250% of the FPL, the Marketplace correctly determined that you and your child are eligible for cost-sharing reductions if you enroll in a silver-level QHP.

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Therefore, the March 13, 2015 eligibility determination is correct and is AFFIRMED.

However, you testified that you no longer expect to claim your child as a dependent for the 2015 tax year. This change has been reflected in your June 9, 2015 application for health insurance. Therefore, the March 13, 2015 notice of eligibility determination is superseded by a notice of eligibility redetermination issued on June 10, 2015 confirming the results of the June 9, 2015 application. The June 10, 2015 notice has been separately appealed, and is not reviewed here.

## **Decision**

The March 13, 2015 notice of eligibility determination is AFFIRMED.

**Effective Date of this Decision:** July 24, 2015

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

This decision does not change your eligibility.

The March 13, 2015 notice of eligibility determination has since been superseded by the June 10, 2015 notice of eligibility determination.

The June 10, 2015 notice of eligibility determination is not reviewed here and remains in effect.

## **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

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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 13, 2015 notice of eligibility determination is **AFFIRMED**.

This decision does not change your eligibility.

The March 13, 2015 notice of eligibility determination has since been superseded by the June 10, 2015 notice of eligibility determination.

The June 10, 2015 notice of eligibility determination is not reviewed here and remains in effect.

## **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]