



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

## Notice of Decision

Decision Date: July 30, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002826

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On June 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 9, 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: AP000000002826

[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 for up to \$149.00 per month in advance premium tax credits effective June 1, 2015?

## Procedural History

On May 8, 2015, the Marketplace received your application for health insurance and prepared a preliminary eligibility determination in your case. It stated that you are eligible to receive an advance premium tax credit of up to \$149.00 per month. This preliminary determination was based on an attested household income of \$31,115.18.

Also on May 8, 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 \$149.00 per month.

On May 9, 2015, the Marketplace issued a notice of eligibility determination reflecting the May 8, 2015 preliminary eligibility determination.

On June 11, 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 testified, and the record reflects, that you expect to file your 2015 federal income tax return as Single and claim no dependents.
- 2) According to the May 8, 2015 application, you attested to an expected income of \$31,115.18 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.
- 3) You testified that you may take a charitable deduction on your 2015 federal income tax return but cannot determine the amount.
- 4) You testified, and the record reflects, that you reside in Kings 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 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).

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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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 250% but less than 300% of the 2014 FPL, the expected contribution is between 8.10% and 9.56% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that you are eligible to receive an advance premium tax credit of up to \$149.00 per month.

According to the May 8, 2015 application for health insurance, you expect to file your 2015 federal income tax return as Single, and claim no dependents; therefore, you are a one-person tax household.

According to the same application, you attested to an expected household income of \$31,115.18. 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 through the Marketplace costs \$371.75 per month.

An annual income of \$31,115.18 is 226.63% of the 2014 federal poverty level (FPL) for a one-person household. At 226.63% of the FPL, the expected contribution to the cost of the health insurance premium is 8.59% of income, or \$222.60 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 in your county (\$371.75 per month) minus your expected contribution (\$222.60 per month), which equals \$149.15 per month. Rounded to the nearest dollar, the Marketplace correctly determined your APTC to be up to \$149.00 per month.

Therefore, the May 9, 2015 notice of eligibility determination is correct and is **AFFIRMED**.

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).

## **Decision**

The May 9, 2015 notice of eligibility determination is AFFIRMED.

**Effective Date of this Decision:** July 30, 2015

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

You remain eligible to receive an advance premium tax credit of up to \$149.00 per month.

## **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:  
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Albany, NY 12211
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## **Summary**

The May 9, 2015 notice of eligibility determination is AFFIRMED.

You remain eligible to receive an advance premium tax credit of up to \$149.00 per month.

## **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]