



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

## Notice of Dismissal

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003147

[REDACTED]

Dear [REDACTED],

On August 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 21, 2013 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 Code of Federal Regulation (CFR) 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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### Issue

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

Was your May 27, 2015 appeal request timely with regard to the Marketplace's October 21, 2013 eligibility determination?

### Procedural History

The Marketplace received your "non-financial assistance" application for health insurance on October 8, 2013.

On October 21, 2013, the Marketplace issued an eligibility determination notice stating that you were eligible to enroll in a qualified health plan (QHP) through the Marketplace.

On November 6, 2013, the Marketplace issue a notice confirming your enrollment in a Health Republic plan at a premium rate of \$375.43 per month.

On May 27, 2015, you spoke with the Marketplace Account Review Unit and appealed the October 21, 2013 determination, requesting that your eligibility for 2014 be changed, to allow you an advance premium tax credit (APTC) during the 2014 plan year.

On August 3, 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 submitted a non-financial assistance application for health insurance on October 8, 2013, and were found eligible to enroll in a qualified health plan (QHP) at full cost.
- 2) You enrolled in a Health Republic plan during the 2014 plan year at a monthly premium rate of \$375.43 per month.
- 3) You testified that you first notified the Marketplace on May 27, 2015 that you wanted to appeal the amount of advance premium tax credit (APTC) you were eligible for during the 2014 plan year. You further testified that you wanted to challenge your eligibility for APTC during the 2014 plan year after you had filed your 2014 U.S. Individual Income Tax return, since you determined that your adjusted gross income was \$15,749.00 during 2014.
- 4) You did not update your account at any time during 2014, nor did you submit an application seeking financial assistance until May 27, 2015.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Appeal Timeliness

The Marketplace "appeals entity must allow an applicant or enrollee to request an appeal within (1) 90 days of the date of the notice of eligibility determination; or (2) A timeframe consistent with the state Medicaid agency's requirement for submitting fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination" (45 CFR § 155.520(b)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (N.Y. Soc. Serv. Law § 22(4)(a)), and this timeframe has been adopted by the Marketplace.

## **Legal Analysis**

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On May 27, 2015, you spoke with the Marketplace's Account Review Unit and appealed the October 21, 2013 eligibility determination insofar as you were challenging your eligibility for an advance premium tax credit (APTC) during the 2014 plan year.

Eligibility determinations may be appealed within 60 days of issue. Since the October 21, 2013 eligibility determination was issued more than 60 days before May 27, 2015, the appeal was untimely as to that determination and is dismissed.

The October 21, 2014 eligibility determination continues in effect, and the Appeals Unit will not address the question of your eligibility for APTC based on your October 8, 2013 application.

## **Decision**

The May 27, 2015 appeal of the October 21, 2013 eligibility determination is untimely and is dismissed.

**Effective Date of this Decision:** October 27, 2015

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

This decision does not change your eligibility.

## **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)).

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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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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The May 27, 2015 appeal of the October 21, 2013 eligibility determination is untimely and is dismissed.

This decision does not change your eligibility.

### **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:**

