



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

## Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004105



Dear [REDACTED],

On October 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 30, 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 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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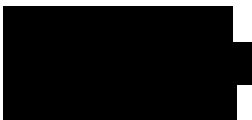


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## Decision

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## Issues

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

Did the Marketplace properly determine that you were eligible to receive an advance premium tax credit of up to \$35.00 per month, effective September 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions, effective September 1, 2015?

## Procedural History

On July 6, 2015, the Marketplace received a COBRA Election Notice Summary Page issued by WageWorks on June 16, 2015 reflecting that your insurance coverage had been terminated as of June 8, 2015.

On July 29, 2015, the Marketplace received your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the July 29, 2015 application, stating that you were eligible to receive an advance premium tax credit (APTC) of up to \$35.00 per month and eligible for cost-sharing reductions (CSR), effective September 1, 2015.

Also on July 29, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were found eligible for an APTC of no more than \$35.00 per month.

On July 30, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the July 29, 2015 application, stating that you were eligible to receive an APTC of up to \$35.00 per month and eligible for CSR, effective September 1, 2015.

On September 13, 2015, the Marketplace received a copy of an Unemployment Insurance Monetary Benefit Determination issued to you on or about June 18, 2015.

On October 5, 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 that you expected to file your 2015 taxes with a tax filing status of married filing jointly. You will claim your two sons as dependents on that tax return.
- 2) Your July 29, 2015 application reflected that you were only seeking insurance for yourself since at that time your spouse believed he would be eligible for insurance through ██████ beginning August 1, 2015.
- 3) The application that was submitted on July 29, 2015 listed annual household income of \$48,396.80, consisting of (1) \$14,062.40 you earned from your employment at ██████ between January 1, 2015 and June 8, 2015, (2) \$420.00 per week in unemployment benefits you expect to receive over 26 weeks through the end of 2015, (3) \$13,910.40 your spouse earned from his employment at ██████ between January 1, 2015 and May 5, 2015, and (4) \$6,000.00 your spouse expected to receive from his new employer, ██████ You testified that these amount were correct when you submitted your application on July 29, 2015.
- 4) You testified that your employment at ██████ and your corresponding insurance coverage, ended on June 8, 2015 as the result of you having commenced civil litigation against that employer.
- 5) You filed your claim for unemployment on June 18, 2015. You were awarded \$420.00 per week in unemployment insurance benefits.
- 6) You testified that all of the figures you provided remain accurate except your spouse's anticipated earnings of \$6,000.00 from ██████ You further testified that his employment never began with ██████ since they had

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rescinded the employment offer immediately after you submitted the July 29, 2015 application for health insurance.

- 7) You testified that your spouse has since found a new position and began working at [REDACTED] on September 21, 2015. He is now earning \$17.00 per hour, working 40 hours per week and expects to remain employed through the end of 2015.
- 8) Your application states that you will not be taking any deductions on your 2015 tax return.
- 9) Your application states that you live in Erie County.
- 10) You testified that you were now seeking insurance for both you and your spouse since your spouse's employment, and corresponding insurance coverage, with [REDACTED] had been rescinded.

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 generally 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 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)).

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 \$23,850.00 for a four-person household (79 Fed. Reg. 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)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$35.00 per month.

The application that was submitted on July 29, 2015 listed an annual household income of \$48,396.80, which was comprised (1) \$14,062.40 you earned from your employment at [REDACTED] January 1, 2015 and June 8, 2015, (2) \$10,920.00 (\$420.00 x 26 weeks) of unemployment benefits you expect to receive through the end of 2015, (3) \$13,910.40 your spouse earned from his employment [REDACTED] between January 1, 2015 and May 5, 2015, and (4) \$6,000.00 your spouse expected to receive from [REDACTED]. While your spouse was ultimately not employed by [REDACTED] received no income from them, the Marketplace relied upon that information in making its determination.

You are in a four-person household. You expect to file you 2015 income taxes as married filing jointly and will claim your two sons as dependents on that tax return.

You reside in Erie County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$295.03 per month.

An annual income of \$48,396.80 is 202.92% of the 2014 FPL for a four-person household. At 202.92% of the FPL, the expected contribution to the cost of the health insurance premium is 6.44% of income, or \$259.84 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 (\$295.03 per month) minus your expected contribution (\$259.84 per month), which equals \$35.19 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$35.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$48,396.80 is 202.92% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

Since the July 30, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$35.00 per month in APTC and eligible for CSR, it is correct and is AFFIRMED.

You credibly testified, however, that your expected income during 2015 has changed as a result of your spouse having not worked at [REDACTED] as reflected within the July 29, 2015 application, but rather began working at [REDACTED] on September 21, 2015. The credible evidence of record reflects that he now earns \$17.00 per hour, works 40 hours per week, and expects to remain employed with [REDACTED] through the 15 weeks remaining in 2015. It is therefore reasonable to conclude that your spouse expects to earn \$10,200.00 (\$17.00 x 40 hours x 15 weeks) from [REDACTED] during the remainder of 2015.

Accordingly, since you now indicate that both you and your spouse are seeking insurance coverage (as opposed to just yourself), we find there is sufficient evidence that your case should be RETURNED to the Marketplace for a redetermination of your household's eligibility based on an annual household income of \$49,092.80 for a four-person household in Erie County, and that you and your spouse were seeking to enroll in a joint insurance plan.

## **Decision**

The July 30, 2015 eligibility determination is AFFIRMED.

Your case is RETURNED to the Marketplace for a redetermination of your household's eligibility based on an annual household income of \$49,092.80 for a four-person household in Erie County, and that you and your spouse were seeking to enroll in a joint insurance plan.

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

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

You remain eligible for an advance premium tax credit (APTC) up to \$35.00 per month.

You remain eligible for cost-sharing reductions (CSR).

You will receive a new notice of eligibility determination based on an annual household income of \$49,092.80 for a four-person household in Erie County, and that you and your spouse were seeking to enroll in a joint insurance plan.

### **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):**

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- By fax: 1-855-900-5557

## **Summary**

The July 30, 2015 eligibility determination is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace for a redetermination of your household's eligibility based on an annual household income of \$49,092.80 for a four-person household in Erie County, and that you and your spouse were seeking to enroll in a joint insurance plan.

You remain eligible for an advance premium tax credit (APTC) up to \$35.00 per month.

You remain eligible for cost-sharing reductions (CSR).

You will receive a new notice of eligibility determination based on an annual household income of \$49,092.80 for a four-person household in Erie County, and that you and your spouse were seeking to enroll in a joint insurance plan.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

