



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

## Notice of Decision

Decision Date: December 21, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004348

[REDACTED]

Dear [REDACTED],

On December 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 18, 2015 eligibility determination and enrollment notices regarding you and your daughter.

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

Decision Date: December 21, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004348



## Issue

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

Did the Marketplace properly determined that you and your 23-year old daughter, who were found individually eligible for advance premium tax credits at different levels and individually eligible for cost sharing reductions, were properly enrolled together in a parent and child qualified health plan with only your monthly APTC being applied, effective September 1, 2015?

## Procedural History

On August 17, 2015, the Marketplace received your updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to your application for your family. Based on your attested household income of \$40,668.00, you were found eligibility to receive up to \$204.00 per month in advance premium tax credits (APTC) and eligible for cost sharing reductions, effective October 1, 2015. Also, based on a separate attested household income of \$23,400.00, your 23-year-old daughter was found eligible to receive up to \$248.00 per month in APTC and eligible for cost sharing reductions, effective October 1, 2015.

On that same day, you and your daughter were enrolled in the same silver-level qualified health plan (QHP) for a parent and child, with your coverage effective August 1, 2015 and your 23-year-old daughter's coverage effective September 1, 2015.

Also on that same day, you contacted the Marketplace's Account Review Unit and requested an appeal of the August 17, 2015 preliminary eligibility determination and QHP enrollment insofar as you and your 23-year-old daughter were enrolled together in

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a parent and child QHP, to which only your monthly APTC of \$204.00 was applied such that you felt it was too expensive. In addition, since your daughter files her own taxes separately and will not be claimed as a tax dependent on your 2015 tax return filing, you appealed your daughter not being able to apply her APTC amount to which she is entitled to her own QHP.

On August 18, 2015, the Marketplace issued eligibility determination and enrollment notices that were consistent with the August 17, 2015 preliminary determination and enrollment regarding you and your 23-year-old daughter. The enrollment notice also indicated that only your APTC of \$204.00 would be applied to the total cost of the monthly premium.

At the time that you requested the appeal, you also requested that aid to continue through Medicaid be granted with regard to your whole family, which the Marketplace granted on August 25, 2015 from August 1, 2015 through November 30, 2015.

In this regard, on August 26, 2015, the Marketplace issued an eligibility redetermination notice stating you and your family were eligible for Medicaid effective August 1, 2015, and also issued an enrollment notice that confirmed your family members, including you and your 23-year-old daughter, had health insurance through Medicaid pending the outcome of the appeal process. Since the hearing was not held before the November 30, 2015 aid to continue end date due to scheduling matters, your family was granted an additional extension of aid to continue under Medicaid through December 31, 2015.

On December 3, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You appeared on your own behalf and as the authorized representative for your 23-year-old daughter. 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 and your wife will claim your two minor children as dependents on that tax return.
- 2) Your Marketplace application, updated on August 17, 2015, listed an annual household income of \$40,668.00. You testified that this amount was correct.
- 3) According to that same Marketplace application and your testimony at hearing, your 23-year-old daughter is listed as expecting to file a 2015 tax return using a tax filing status of Single; she will not be claiming any dependents; and her household income is listed as \$23,400.00. You testified this amount was correct.

- 4) You are appealing your daughter being enrolled in the same silver-level QHP with you on a parent and child plan and only your monthly advance premium taxes being applied.
- 5) You testified that you believe your daughter should be on her own individual QHP plan with her monthly APTC applied to the premium because she files her own taxes, expects to use a tax filing status of Single, and is not expected claimed as a dependent on your 2015 tax return

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

## **Applicable Law and Regulations**

### Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions, the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

### Advance Premium Tax Credit

The 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 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)).

### Cost Sharing Reductions

Cost sharing reductions 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

Initially, the amount of advance premium tax credits (APTC) to which you and your daughter are each entitled and your respective eligibilities for cost sharing reductions are not under review, such that the August 18, 2015 eligibility determination notice as it relates to your respective eligibilities remains in effect.

The issue under review is whether the Marketplace properly determined that you and your 23-year-old daughter, who were found individually eligible for APTC at different levels and individually eligible for cost sharing reductions, were properly enrolled together in a parent and child qualified health plan (QHP) with only your monthly APTC being applied, effective September 1, 2015.

For purposes of APTC and cost sharing reductions, the household consists of the tax payer, his or her spouse, and any claimed dependents. In your case, the record reflects that you and your spouse expect to file your 2015 federal tax return using the tax filing status of Married Filing Jointly and will claim your two minor children as dependents on that return. Therefore, you are in a four-person tax household.

Similarly, the record reflects that your 23-year-old daughter expects to file her 2015 federal tax return using a tax filing status of Single and will not be claiming any dependents on that tax return. Therefore, she is in a one-person tax household.

Since you both have separate tax households, and were individually found eligible for APTC and cost sharing reductions, you both should have been enrolled in your own individual QHP with your respective monthly APTC amounts applied, as well as your own applicable cost sharing reductions.

However, it appears that since your daughter was included on your Marketplace application and not on her own application, and made a QHP selection with the same plan as you, the system combined your enrollments under the same silver-level QHP as a parent and child plan instead of enrolling you both separately under individual plans. As such, neither of you were able to take advantage of being enrolled in individual silver-level QHPs nor were you able to apply your respective monthly APTC amounts to the monthly premiums.

For this reason, the August 17, 2015 enrollment of you and your daughter in a parent and child QHP and the corresponding August 18, 2015 enrollment notice are incorrect and are RESCINDED.

Since your family has been granted aid to continue under Medicaid through December 31, 2015, and it is now December 2015, no further action by the Marketplace is required to correct your and your 23-year-old daughter's enrollment as of September 1, 2015.

## **Decision**

The August 17, 2015 enrollment and August 18, 2015 enrollment notice regarding you and your daughter are RESCINDED.

**Effective Date of this Decision:** December 21, 2015

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

You and your 23-year-old daughter each were eligible for individual levels of advance premium tax credits and cost sharing reductions as of September 1, 2015, but were improperly enrolled in the same silver-level qualified health plan as a parent and child when you should have been enrolled in separate individual plans as of that date.

Therefore, your enrollments as of September 1, 2015 have been rescinded.

However, at this late date and because your family has been granted aid to continue under Medicaid which was extended until December 31, 2015, no further action by the Marketplace is required.

It is recommended, however, that your 23-year-old daughter file her own Marketplace application for 2016, if she has not already done so.

## **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.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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## **Summary**

The August 17, 2015 enrollment and August 18, 2015 enrollment notice regarding you and your daughter are RESCINDED.

You and your 23-year-old daughter each were eligible for individual levels of advance premium tax credits and cost sharing reductions as of September 1, 2015, but were improperly enrolled in the same silver-level qualified health plan when you should have been enrolled in separate individual plans as of that date.

Therefore, your enrollments as of September 1, 2015 have been rescinded.

However, at this late date and because your family has been granted aid to continue under Medicaid which was extended until December 31, 2015, no further action by the Marketplace is required.

It is recommended, however, that your 23-year-old daughter file her own Marketplace application for 2016, if she has not already done so.

## **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:**

