



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

## Notice of Decision

Decision Date: February 16, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004596

[REDACTED]

Dear [REDACTED],

On December 16, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 22, 2015 eligibility determination notice.

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 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: February 16, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004596



## Issue

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

Was your appeal of the Marketplace's May 22, 2015 eligibility determination timely?

## Procedural History

On November 5, 2014 the Marketplace issued a renewal notice stating that you were re-enrolled into your qualified health plan with a start date of January 1, 2015. The notice further stated that you no longer qualified for tax credits or cost sharing reductions to help you pay for health coverage but you do qualify to buy a health plan at full cost, effective January 1, 2015.

On December 2, 2014 the Marketplace issued an enrollment confirmation notice stating that your enrollment in your qualified health plan with a \$588.92 premium could start as early as January 1, 2015 if you pay your first month's premium.

On May 22, 2015 the Marketplace issued an eligibility determination notice stating that you were newly conditionally eligible to receive up to \$318.00 per month in advance premium tax credits and cost-sharing reductions, effective July 1, 2015.

Also on May 22, 2015 the Marketplace issued an enrollment confirmation notice stating that your enrollment in your qualified health plan with a \$270.92 premium could start as early as January 1, 2015 if you pay your first month's premium.

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On September 2, 2015 a formal appeal was filed with the Marketplace's Account Review Unit based on the May 22, 2015 eligibility determination insofar as your advance premium tax credit was not applied to your premium amount as of January 1, 2015.

On December 16, 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 did not receive the notice informing you that you were no longer eligible for tax credits or any notices informing you that your premium amount was increasing.
- 2) You testified that you set your premium payments on automatic debit through your bank account and that you do not usually open any billing statements you receive through the mail if it is from a company that you have automatic debit payments with.
- 3) You testified that the termination of your tax credit for the beginning part of 2015 should have been made clear to you either by a phone call from the Marketplace or a letter sent to you through certified mail.
- 4) You testified that a representative from the Marketplace told you that your eligibility for advance premium tax credits would be made retroactive to January 1, 2015.
- 5) The record reflects that the first time you contacted the Marketplace to file a formal complaint about the tax credit you were eligible for from January 2015-June 2015 was September 2, 2015.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance

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payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by the Marketplace (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

### End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

## **Legal Analysis**

The only issue under review is whether your appeal of the Marketplace's May 22, 2015, 2015 eligibility determination was timely.

On May 22, 2015 the Marketplace issued an eligibility determination notice stating that you were newly conditionally eligible to receive up to \$318.00 per month in advance premium tax credits and cost-sharing reductions, effective July 1, 2015.

The record reflects that the first time you contacted the Marketplace to file a formal complaint about the tax credit you were eligible for from January 2015-June 2015 was September 2, 2015. Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by the Marketplace.

For an appeal to have been valid on the issue of the effective date of your advance premium tax credits as stated in the May 22, 2015 notice, an appeal should have been filed by July 20, 2015. According to the credible evidence in the record, you did not contact the Marketplace until September 2, 2015 to file a formal appeal which is well beyond 60 days from the May 22, 2015 eligibility determination notice.

Therefore, there has been no valid appeal of the May 22, 2015 eligibility determination notice and your appeal on the issue of the effective date of your advance premium tax credit eligibility as stated in that notice is DISMISSED.

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. If you should have been entitled to an advance premium tax credit in the month of January, you may receive it in the form of a refund on your 2015 income tax return.

## **Decision**

Your appeal of the May 22, 2015 eligibility determination notice is untimely and is dismissed.

**Effective Date of this Decision:** February 16, 2016

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

Your eligibility remains the same.

## **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):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
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## **Summary**

Your appeal of the May 22, 2015 eligibility determination notice is untimely and is dismissed.

Your eligibility remains the same.

## **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:**

