



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

## Notice of Decision

Decision Date: February 12, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000005407

[REDACTED]

Dear [REDACTED],

On February 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 2, 2015 preliminary 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 and the NY State of Health number at the top of this notice.

### Legal Authority

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

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]  
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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 \$0.00 per month in advance payments of the premium tax credit, effective January 1, 2016?

Did the Marketplace properly determine that you were not eligible for cost-sharing reductions?

## Procedural History

On December 2, 2015, the Marketplace received your completed application for health insurance. That day, a preliminary eligibility determination was prepared with regard to the that application, stating that you were eligible for an advance premium tax credit of \$0.00 and eligible for cost-sharing reductions (CSR), effective January 1, 2016.

Also on December 2, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were found effectively ineligible for an APTC at that time.

On December 6, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the December 2, 2015 application. It stated that you were eligible for an APTC of \$0.00 and, if you selected a silver-level plan, eligible for CSR. This eligibility determination was effective January 1, 2016.

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On February 8, 2016, 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 2016 taxes with a tax filing status of married filing jointly. You will claim your two children as dependents on that tax return.
- 2) You are seeking insurance only for yourself.
- 3) The application that was submitted on December 2, 2015 listed annual household income of \$58,000.00, consisting of solely of your spouse's earnings from his employer, [REDACTED]. You testified that while his earnings fluctuate from week to week, this estimated annual earnings during 2016 remained reasonably accurate.
- 4) Your application states that you did not anticipate taking any deductions on your 2016 tax return.
- 5) You live in Wyoming County, New York.
- 6) You testified that you were not clear on why you were not found eligible for any tax credits if your income was below the threshold to be eligible for that subsidy generally.

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

## **Applicable Law and Regulations**

### Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are 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 2016 is set by federal law at 2.03% to 9.66% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

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 2015 FPL, which is \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

For annual household income in the range of at least 200% but less than 250% of the 2015 FPL, the expected contribution is between 6.41% and 8.18% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

### 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 APTC of \$0.00 per month.

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The application that was submitted on December 2, 2015 listed an annual household income of \$58,000.00 and the eligibility determination relied upon that information.

You are in a four-person household. You expect to file your 2016 income taxes as married filing jointly and will claim your two children as dependents on that tax return.

You reside in Wyoming County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$370.85 per month.

An annual income of \$58,000.00 is 239.18% of the 2015 FPL for a four-person household. At 239.18% of the FPL, the expected contribution to the cost of the health insurance premium is 7.80% of income, or \$377.00 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 (\$370.85 per month) minus your expected contribution (\$377.00 per month). Since your monthly expected contribution to the cost of the health insurance premium exceeded the cost of the second lowest cost silver plan available for an individual in your county, the Marketplace correctly determined you to be eligible for \$0.00 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 \$58,000.00 is 239.18% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR

Since the December 6, 2015 eligibility determination notice, and the December 2, 2015 preliminary eligibility determination upon which it is based, properly stated that, based on the information you provided, you were eligible for \$0.00 per month in APTC and eligible for CSR, it is correct and is AFFIRMED.

## **Decision**

The December 6, 2015 eligibility determination notice, and the December 2, 2015 preliminary eligibility determination upon which it is based, are each AFFIRMED.

**Effective Date of this Decision:** February 12, 2016

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

You are eligible for an advance premium tax credit of \$0.00 per month

You are eligible for cost-sharing reductions.

## **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
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## **Summary**

The December 6, 2015 eligibility determination notice, and the December 2, 2015 preliminary eligibility determination upon which it is based, are each AFFIRMED.

You are eligible for an advance premium tax credit of \$0.00 per month

You are eligible for cost-sharing reductions.

## **Legal Authority**

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



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

