



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

## Notice of Decision

Decision Date: May 24, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000006088



Dear [REDACTED],

On April 19, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 9, 2016 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

### 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

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## Issues

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

Did the NYSOH properly determine that you, your spouse and eldest child were eligible to receive up to \$725.00 monthly of advance premium tax credits as of January 9, 2016?

Did the NYSOH properly determine that you, your spouse and eldest child were eligible for cost-sharing reductions as of January 9, 2016?

## Procedural History

On January 8, 2016 you updated your NYSOH account. The Marketplace rendered a preliminary eligibility determination that, based on your attested income of \$53,999.95, you, your spouse and eldest child were eligible for up to \$725.00 of advance premium tax credit and cost-sharing reductions, if you enroll in a silver-level qualified health plan.

On the same day you spoke to the NYSOH Account Review Unit and requested an appeal insofar as the amount of financial assistance you and your family were determined eligible to receive.

On January 9, 2016 the NYSOH issued an eligibility determination that, based on your attested income of \$53,999.95, you, your spouse and eldest child were eligible for up to \$725.00 of advance premium tax credits and cost-sharing reductions, effective as of February 1, 2016.

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On April 21, 2016 you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

## **Findings of Fact**

A review of the record supports the following findings of fact:

1. According to your January 8, 2016 application, you are applying for health insurance through NYSOH for yourself, your spouse and two children.
2. According to your NYSOH account, your youngest child was determined eligible to enroll in the Child Health Plus program.
3. You testified that you are appealing the amount of financial assistance you, your spouse and eldest child were determined eligible to receive through NYSOH.
4. According to your January 8, 2016 application and testimony, you plan on filing a 2016 federal income tax return with the tax status of married filing jointly, with your spouse, and will be claiming two dependents on that tax return.
5. According to your January 8, 2016 application, you attested to a 2016 expected annual household income of \$53,999.95. Your expected income is \$13,500.00, and your spouse's expected income is \$40,499.95 for 2016.
6. You testified that Line 21 on your 2014 Form 1040A U.S. Individual Income Tax Return indicated that your household adjusted gross income was \$54,449.00, and you expected your income to be similar in 2016.
7. You currently reside in Bronx County, NY.
8. You testified that your health insurance premiums have increased and are no longer affordable.

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

## **Applicable Law and Regulations**

### Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term

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“modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

#### Advance Premium Tax Credit:

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2015 federal poverty level; (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 qualified health plan; 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 the 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).

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 (see 26 CFR § 1.36B-3T(g)(1), (IRS Rev. Proc. 2014-62)).

In an analysis of APTC eligibility, the determination is based on the FPL “for the benefit year for which coverage is requested. (45 CFR § 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).

#### 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 advanced premium tax credits, (3) is expected to have an annual household income that does not exceed 250 percent of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

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## 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 NYSOH and their actual income for that year. A person who received less tax credit than their maximum entitlement, based on their income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

## Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan QHP. Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605 (a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined you, your spouse and eldest child eligible for up to \$725.00 monthly of APTC.

According to the record, you have a four-person tax household. You expect to file your 2016 federal income tax return with the tax status of married filing jointly, with your spouse, and will claim your two children as dependents on that return.

You reside in Bronx County, where the second lowest cost silver plan that is available through the Marketplace for a couple and one dependent costs \$1049.90 per month.

The January 9, 2016 eligibility determination was based on an annual household income of \$53,999.95, which was the amount you attested to as your household's expected annual income for 2016.

An annual household income of \$53,999.95 equals 222.68% of the 2015 FPL for a four-person household. At 222.68% of the FPL, the expected contribution to the cost of the health insurance premium is 7.21% of income, or \$324.45 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$1,049.90 per month) minus your expected contribution (\$324.45 per month), which equals \$725.45 per month. Therefore, the Marketplace correctly computed your APTC to be \$725.00 per month.

The second issue is whether the Marketplace properly determined you eligible for cost-sharing reductions.

Cost-sharing reductions are available to a person who has an annual household income no greater than 250% of the FPL. Since your annual household income is 222.68% of the FPL for purposes for APTC and cost-sharing reductions, you, your spouse and eldest child were correctly found eligible for cost-sharing reductions.

Since the January 9, 2016 eligibility determination properly stated that you, your spouse and eldest child are eligible for APTC of up to \$725.00 per month and for cost-sharing reductions, if you enroll in a silver-level qualified health plan. Therefore, it is correct and AFFIRMED.

The record reflects that your household adjusted gross income was \$54,449.00, in 2014, and you expect your income to be similar in 2016.

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 NYSOH and their actual income for that year.

If you should have been entitled to a greater advance premium tax credit for 2016 than what you actually would have been entitled to, this will be reconciled on your 2016 federal income tax return.

## **Decision**

The January 9, 2016 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** May 24, 2016

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

You, your spouse and eldest child remain eligible to receive an advance premium tax credit of up to \$725.00 per month and eligible for cost-sharing reductions, if you enroll in a silver-level qualified health plan.

Any difference between the advance premium tax credit (based on your expected 2016 income) and the premium tax credit you can claim on your 2016 federal tax return (based on your actual 2016 income) should be reconciled on your 2016 federal tax return.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

### **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
- By mail at:

NY State of Health Appeals

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- By fax: 1-855-900-5557

## **Summary**

The January 9, 2016 eligibility determination is **AFFIRMED**.

You, your spouse and eldest child remain eligible to receive an advance premium tax credit of up to \$725.00 per month and eligible for cost-sharing reductions, if you enroll in a silver-level qualified health plan.

Any difference between the advance premium tax credit (based on your expected 2016 income) and the premium tax credit you can claim on your 2016 federal tax return (based on your actual 2016 income) should be reconciled on your 2016 federal tax return.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **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:**

