



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

## Notice of Decision

Decision Date: July 15, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000557

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On May 15, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 3, 2014 eligibility determination.

The attached 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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NY State of Health Number: [REDACTED]  
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[REDACTED]  
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## Issues

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

Did the Marketplace properly determine that, as of April 3, 2014, [REDACTED] was eligible to enroll in a qualified health plan (QHP) through the Marketplace but not eligible for an advance premium tax credit (APTC)?

## Procedural History

On November 20, 2013, the Marketplace received your initial application.

On April 3, 2014, this application was revised to indicate expected 2014 income of \$65,750.00 and state that you could not get health insurance coverage through your job. That same day, the Marketplace prepared a preliminary redetermination and, during a conversation with Marketplace Customer Service, you appealed the April 3, 2014 preliminary determination.

According to the Appeal Summary, the basis for the appeal is: "Consumer does not agree with eligibility determination. She has ESHI and is stating it is not affordable due to % paid out of pocket and % employer covers. Stating premiums are too much" (NYSOH Exhibit A, p. 2).

On April 4, 2014, the Marketplace issued a notice of eligibility redetermination consistent with the April 3, 2014 preliminary redetermination. It said you were still eligible to enroll in a QHP through the Marketplace and that you were still not eligible to receive APTC because your household income of \$65,750.00 was over the allowable income limit of \$45,960.00.

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On May 15, 2014, 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) The Appellant is unmarried and has one child who is 27-years-old. This child applied for health insurance under a separate Marketplace account (NYSOH Exhibit A, pg. 5; Appellant's Testimony).
- 2) The Appellant plans to file a U.S. Income Tax return for the 2014 tax year, and file as "single" with no claimed dependents (NYSOH Exhibit A, pg. 6; Appellant's Testimony).
- 3) As of April 3, 2014, the Appellant's application to the Marketplace stated an expected earned income in 2014 of \$66,200.00, with \$450.00 in deductions relating to educational expenses. The Appellant credibly testified that as of the hearing her expected earned income for 2014 was approximately \$63,000.00, but that the \$450.00 in deductions remained accurate (NYSOH Exhibit A, p. 7; Appellant's Testimony).
- 4) The Appellant is currently enrolled in a health insurance plan through her employer, [REDACTED]. However, the Appellant stated that she believes the insurance is unaffordable since she pays approximately \$300.00 monthly for coverage, and is routinely subject to a \$40.00 co-pay for physician visits and a \$2,000.00 annual deductible (Appellant Testimony).

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

## **Applicable Law and Regulations**

An advance premium tax credit (APTC) is available when a tax filer is not eligible for health insurance that provides minimum essential coverage (26 CFR § 1.36B-2(a)(2)).

An employer-sponsored health insurance plan is considered to provide minimum essential coverage as long as the plan "is affordable and provides minimum

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value” (26 CFR § 1.36B-2(c)(3)(i)). An eligible employer-sponsored plan is “affordable” if the portion of the annual premium that the employee pays does not exceed 9.5% of the employee’s household income (26 CFR 1.36B-2(c)(3)). The plan provides “minimum value” if its “share of the total allowed costs of benefits provided to the employee under the plan ... is at least 60 percent” (26 CFR 1.36B-2(c)(3)(vi)).

Additionally, APTC is available only to a tax filer whose household income is not expected to be more than 400% of the 2013 Federal Poverty Level (FPL) for the benefit year (45 CFR § 155.305(f); 26 CFR § 1.36B-2). For a one-person household, 100% of the 2013 FPL is \$11,490.00, so a household of one person can qualify for APTC only if the household income is no more than \$45,960.00 (400.00%).

## **Legal Analysis**

You are the only person in your tax household and your household size for APTC purposes is one person (yourself).

At the hearing you credibly testified to having, during 2014, an expected income of \$63,000.00 and tax deductions totaling \$450.00. An income of \$62,550.00 places you at 544.39% of the 2013 federal poverty level (FPL). APTC is available only to a tax filer whose income is no more than \$45,960.00, which is 400.00% of the FPL. Since you earn more than the allowable maximum for this program, you are not eligible for APTC.

You also would not be eligible for APTC if the health insurance you have through your employer provides minimum essential coverage. To provide minimum essential coverage the plan must be affordable and provide minimum value.

During the hearing, you testified that a health insurance plan you have through your employer is unaffordable. Under the regulations the Marketplace must follow, employer-sponsored health insurance plan is considered to be affordable if it costs no more than 9.5% of the household income. You testified that you pay approximately \$300.00 per month for such coverage, or \$3,600.00 annually. Annual premiums of \$3,600.00 cost 5.76% of \$62,550.00, your reported household income. Since your plan costs 5.76% of household income, the health insurance you have through your employer does qualify as affordable.

To qualify as minimum essential coverage, an employer-sponsored plan also must provide minimum value; that is, cover at least 60% of the total allowed costs of benefits provided to you. Since no evidence was presented on this point, no decision can be made on the issue of minimum value.

Therefore, upon review, the record shows that the Appellant has health insurance coverage through her employer that costs less than 9.5% of household income and is therefore affordable. It also shows that the Appellant is not eligible for APTC because her expected household income of \$62,550.00 (544.39% of 2013 FPL) is higher than the income limit for APTC, which is \$45,960.00 (400.00% of 2013 FPL).

## **Decision**

The April 4, 2014 eligibility determination is MODIFIED to state that the Appellant's anticipated income for 2014 is \$62,550.00.

**Effective Date of this Decision:** July 15, 2014

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

You are not eligible to receive an advance premium tax credit (APTC) for insurance purchased through the Marketplace because your income is over the limit allowed.

At an annual premium cost of \$3,600.00, your employer-sponsored health insurance costs less than 9.5% of household income and therefore qualifies as affordable.

## **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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

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 for assistance.

### **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:  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The April 4, 2014 eligibility determination is MODIFIED to state that the Appellant's anticipated income for 2014 is \$62,550.00.

The Appellant is not eligible to receive an advance premium tax credit (APTC) for insurance purchased through the Marketplace because her income exceeds the limit allowed.

At an annual premium cost of \$3,600.00, the Appellant's employer-sponsored health insurance costs less than 9.5% of household income and therefore qualifies as affordable.

### **Legal Authority**

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

[REDACTED]  
[REDACTED]  
[REDACTED]