



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

## Notice of Decision

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000563

Decision Date: July 3, 2014

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]

On June 5, 2014, you appeared at a hearing on your appeal of NY State of Health Marketplace's April 7, 2014 preliminary 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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Decision Date: July 3, 2014

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace properly determine that you were not eligible for an advance premium tax credit (APTC) as of April 7, 2014?

## Procedural History

You applied for health insurance through the Marketplace on April 7, 2014.

On April 7, 2014, you received an online preliminary eligibility determination which stated that you were not eligible for APTC to help pay for your health insurance coverage. That same day, you called the Marketplace's Customer Service unit and were told that you were ineligible for assistance because of your tax filing status. You appealed your preliminary determination that day.

On May 28, 2014, you were scheduled to appear for a telephone hearing. A Hearing Officer from the Marketplace's Appeals Unit called you and adjourned the hearing because you stated that you had not received proper notice of the hearing date and time. You waived your right to formal notice, and the hearing was adjourned to June 5, 2014.

On June 5, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and it was closed at the end of the hearing.

## Findings of Fact

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

- 1) You are currently married.
- 2) You plan on filing your taxes as married filing separate for the 2014 tax year.
- 3) You have been separated from your spouse since approximately October 2012.
- 4) You have not obtained a decree of divorce or separate maintenance from your spouse.
- 5) You live alone and do not claim anyone as a tax dependent.
- 6) You testified that your gross income for the 2014 tax filing year will be approximately \$23,400.
- 7) You do not expect to claim any exemptions or deductions on your tax return that would reduce your 2014 income below \$23,400.

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

## Applicable Law and Regulations

A taxpayer who is married must file a joint return with his or her spouse to be eligible for premium tax credits (45 CFR § 155.305(f); 26 CFR § 1.36B-2)

However, a married individual will be treated as not married at the close of the taxable year if the individual

1. Is legally separated from his spouse under a decree of divorce or of separate maintenance, or
2. Meets all of the following criteria:
  - a. files a separate return from his spouse and maintains his household as the primary home for a qualifying child;
  - b. pays more than one half of the cost of keeping up his home for

the tax year; and

- c. his spouse is not a member of the household during the last 6 months of the taxable year (26 USC § 7703(a); 26 USC § 7703(b)).

## **Legal Analysis**

In order to qualify for an advanced premium tax credit, a person who is married must either file taxes jointly with his spouse or qualify as “not married” at the close of the tax year, as noted above.

According to the documents in the record and your testimony at the hearing,

- you are still married to your spouse,
- you are not divorced or legally separated from your spouse, and
- you do not plan to file a joint tax return with your spouse for the 2014 tax year.

The record does not support a finding that you qualify to be treated as “not married” for purposes of this Decision.

Therefore, you are not eligible for an advance premium tax credit.

## **Decision**

██████████ was not eligible to receive an advance premium tax credit (APTC) as of April 7, 2014.

The Marketplace’s preliminary eligibility determination made on April 7, 2014, is AFFIRMED.

**Effective Date of this Decision:** July 3, 2014

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

You remain ineligible to receive advance premium tax credits because you are married and will not be filing a joint tax return with your spouse.

## **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 Marketplace's preliminary eligibility determination made on April 7, 2014, is **AFFIRMED**.

## **Legal Authority**

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

[REDACTED]  
[REDACTED]  
[REDACTED]