



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: AP000000000577

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]

On June 2, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 15, 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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## Decision

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NY State of Health Number: [REDACTED]  
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[REDACTED]  
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## Issue

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

Did the Marketplace's April 14, 2014 eligibility determination properly compute your household income and determine that you are eligible for an Advance Premium Tax Credit (APTC) of \$79.00 per month?

## Procedural History

The Marketplace received your application on April 14, 2014.

On April 14, 2014, the Marketplace prepared a preliminary determination, which indicated that you are eligible to enroll in a Qualified Health Plan (QHP) and receive up to \$79.00 per month of APTC, which is a tax credit to help pay for the cost of your health insurance. A notice was issued consistent with this preliminary determination on April 15, 2014.

On April 14, 2014, you spoke with the Marketplace's Customer Service unit and appealed the determination.

On June 2, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and at the end of the hearing it was held open for fifteen days to receive evidence. No additional evidence was submitted during that time period.

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## Findings of Fact

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

- 1) You are married and file a joint tax return with your spouse.
- 2) You claim your three children and your mother-in-law as dependents on your tax return.
- 3) You are the only person seeking health insurance through the Marketplace.
- 4) According to your Marketplace application, you live in Queens County.
- 5) Your expected annual household income for the 2014 taxable year is \$60,000.
- 6) Your annual mortgage expense is \$25,163.93.
- 7) Your annual utility bill is \$2,291.37.
- 8) Your annual water and gas bill are \$1,661.08 and \$1,466.36 respectively.
- 9) Your annual telephone bill is \$741.94 a year and your annual satellite bill is \$321.88.
- 10) You pay \$5.00 per day in subway fair to travel to and from work five days per week.
- 11) Your food bill is approximately \$18,000 per year.
- 12) Your three children go to school and you pay approximately \$400.00 to \$500.00 per year for school activity fees and field trips.

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

## Applicable Law and Regulations

A person may qualify for APTC if his or her household modified adjusted gross income (MAGI) is between 138% and 400% of the 2013 federal poverty level (FPL) (45 CFR § 155.305(f)). The 2013 FPL for a household of six people is \$31,590, so a person in that household may qualify for APTC if the household income is between \$43,594.20 (138% FPL) and \$126,360.00 (400% FPL).

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The Marketplace calculates MAGI using the same methods used in section 36B(d)(2)(B) of the Internal Revenue Code, with the exception of lump sum payments, certain educational scholarships, and certain American Indian and Alaska Native income (NY Soc. Serv. Law § 366(1)(a)(7)).

Under the Internal Revenue Code, "modified adjusted gross income" means adjusted gross income increased by -- (i) any amount excluded from gross income under section 911, (ii) any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and (iii) an amount equal to the portion of the taxpayer's social security benefits (as defined in section 86(d) which is not included in gross income under section 86 for the taxable year" (26 USCS § 36B(d)(2)(B)).

A taxpayer's adjusted gross income is gross income reduced by pre-tax (above-the-line) deductions. Above-the-line deductions are deductions taxpayers can make to reduce the amount of their taxable income. Such deductions include alimony payments made, interest on student loans, and other items that are included on page one of a taxpayer's U.S. Individual Income Tax Return Form 1040. However, they do not include charitable contributions, mortgage interest and other "below-the-line" deductions or items that are not otherwise considered deductible for tax purposes.

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 (IRC § 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 towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on household's income. For household income from 150% to 200% of the 2013 federal poverty level (FPL), the expected contribution is from 4.0% to 6.3% of the household income (26 CFR § 1.36B-3(g)(2)).

## **Legal Analysis**

The only matters currently at issue is whether the Marketplace properly calculated your household's modified adjusted gross income (MAGI) and advance premium tax credit (APTC).

During the hearing you contended that your expenses for mortgage, utilities, water, gas, phone, transportation to work, school activities and food should be deducted from your household income when determining your APTC. The Internal Revenue Service rules

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do not allow these expenses to be deducted from the modified adjusted gross income that is used to determine a taxpayer's allowable amount of APTC. Therefore, the Marketplace's decision to base your APTC on household income of \$60,000.00 was correct.

According to the record there are six people in your household, you, your spouse, your three children, and your mother-in-law.

You reside in Queens County, where the second lowest cost silver plan available through the Marketplace costs \$370.53 per month.

Your expected income for 2014 is \$60,000 which is 189.93% of the 2013 FPL for a six-person household. At 189.93% of the FPL, the expected contribution to the cost of the health insurance premium is 5.84% of income, or \$292.00 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$370.53 per month) minus your expected contribution (\$292.00 per month), which equals \$78.53 per month. Therefore the Marketplace's determination that you are entitled to \$79.00 per month in APTC is correct.

## **Decision**

The April 15, 2014 eligibility determination is correct and so is AFFIRMED.

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

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

The April 15, 2014 eligibility determination is correct and continues in effect.

You are eligible for an advance premium tax credit of up to \$79.00 per month.

## **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:

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- 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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The April 15, 2014 eligibility determination is AFFIRMED.

You are eligible for an advance premium tax credit of up to \$79.00 per month.

### **Legal Authority**

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

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

[REDACTED]  
[REDACTED]  
[REDACTED]