



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

## Notice of Decision

Decision Date: July 28, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000583

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On June 27, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 1, 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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[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 [REDACTED] is eligible for \$41.00 monthly of Advance Premium Tax Credit (APTC) as of April 1, 2014?

### Procedural History

The Marketplace received appellant’s initial application for health insurance on March 31, 2014.

On April 1, 2014, an eligibility determination notice was issued which stated that appellant was temporarily eligible to enroll in a qualified health plan (QHP) and, at an attested household income of \$41,600.00, was temporarily entitled to up to \$41.00 per month in APTC but that more information was needed to verify her citizenship. Appellant submitted documentation of her citizenship on June 12, 2014. As of the date of this decision, that documentation has not been verified by the Marketplace.

On April 15, 2014, the appellant spoke to the Marketplace’s Customer Service unit and appealed the APTC amount she was quoted in that determination.

On May 23, 2014, appellant was scheduled to appear for a telephone hearing. When a Hearing Officer spoke with the appellant that day, the appellant testified that she had not received written notice of her scheduled telephone hearing. The hearing was adjourned and a new notice was issued to the appellant that same day rescheduling the hearing.

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On June 24, 2014, the appellant appeared for her rescheduled telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and it was held open for 15 days to give the appellant the opportunity to submit proof of her income. No documentation was received within the allotted time. The record is now closed.

## **Findings of Fact**

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

- 1) The appellant is currently single and can claim no dependents on her tax return.
- 2) The appellant plans on filing her 2014 tax return with a tax filing status of single.
- 3) The appellant's online application states that her gross income for the 2014 tax filing year will be \$41,600.00. The appellant testified that this amount was based on her 2013 tax return.
- 4) The appellant testified that she may earn less money during the 2014 tax filing year because she is currently in school and may take more classes than she is taking now. This would result in her working fewer hours at her agency job. The appellant was unsure how greatly this would affect her income.
- 5) The appellant currently has three student loans that she is paying back. The appellant testified that she is only eligible to claim interest paid from one of her student loans on her tax return. The appellant testified that she was unsure how much interest she paid because some months she was unable to make the full payment because of financial difficulties.
- 6) The appellant resides in Queens County.
- 7) The appellant testified that when she spoke to the Marketplace's Customer Service Unit, she was quoted the amount of \$271.00 a month for the premium amount of the lowest cost plan available in her area. The appellant testified that this amount is unaffordable to her and she does not wish to pay for insurance that costs that much.

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

## Applicable Law and Regulations

The amount of APTC awarded 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 (26 USC § 36B(d); 26 CFR § 1.36B-1(e)).

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 in the range of at least 300% of the 2013 federal poverty level (FPL) but less than 400% of the 2013 FPL, the expected contribution is from 9.5% of the household income (26 CFR § 1.36B-3(g)(2)).

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 (45 CFR § 155.505(c)).

Additional information about the exemption, and an application for it, is available at the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)).

## Legal Analysis

The only matter at issue is the amount of the advance premium tax credit (APTC) that has been approved.

According to the record you are the only person in your household.

You reside in Queens County, where the second lowest cost silver plan available through the Marketplace costs \$370.52 per month.

Your expected income for 2014 is \$41,600.00, which is 362.05% of the 2013 FPL for a one-person household. At 362.05% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$329.33 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$370.52 per month) minus your expected contribution (\$329.33 per month), which equals \$41.18 per month.

Therefore the Marketplace correctly computed your APTC to be \$41.00 per month.

You stated that in spite of being determined eligible by the Marketplace for APTC, you will not be able to afford to pay any health insurance premiums due to your monthly expenses. If you are interested in requesting a hardship exemption, you can find additional information and an application at the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)).

## **Decision**

The April 1, 2014 eligibility determination issued is AFFIRMED.

This case is returned to the Marketplace for verification of the citizenship documentation that the appellant submitted on June 12, 2014, and redetermination of the appellant's eligibility with that additional information.

**Effective Date of this Decision:** July 28, 2014

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

The Marketplace correctly determined your household income.

You remain temporarily eligible for an advance premium tax credit of up to \$41.00 per month, pending Marketplace verification of the citizenship documentation that you provided.

## **If You Disagree with this Decision (Appeal Rights)**

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).

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

### **Summary**

The Marketplace's eligibility determination made on April 1, 2014 is **AFFIRMED**.

The Marketplace correctly determined your household income.

You remain temporarily eligible for an advance premium tax credit of up to \$41.00 per month.

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).

This case is returned to the Marketplace for verification of the citizenship documentation that you submitted on June 12, 2014 and redetermination of your eligibility with that additional information.

## **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:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]