



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

## Notice of Decision

Decision Date: August 4, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000633

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

Dear [REDACTED],

On June 13, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 25, 2014 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 notice.

### 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]  
[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 \$0.00 monthly of Advance Premium Tax Credit (APTC) as of April 25, 2014?

## Procedural History

The Marketplace received your application on December 28, 2013.

On December 28, 2013, two preliminary determinations were made. The first said that you were eligible for enrollment in a qualified health plan and that you qualified for \$0.00 per month of advance premium tax credit (APTC), which is a tax credit to help pay for the cost of your health insurance. The second preliminary determination said that you are eligible to enroll in a qualified health plan and qualify up to \$351.00 per month of APTC. On December 30, 2013 a notice was issued that stated that your husband was eligible to enroll in a QHP and you and your husband together were eligible for APTC of up to \$351.00 per month.

On April 16, 2014, a notice was issued that said [REDACTED] is determined to be temporarily eligible to enroll in a qualified health plan and receive tax credits up to \$351.00 per month APTC to help pay for the insurance. That notice also said that proof of citizenship must be submitted to the marketplace before a final determination can be made.

On April 25, 2014, your application was modified to indicate, among other things, that you wanted health insurance through the Marketplace but that your husband did not.

On April 26, 2014, the Marketplace issued an eligibility determination indicating your choice of health plan, indicating that your maximum APTC would be \$0.00 per month, and advising you that additional information was needed on your citizenship.

On May 9, 2014, you called the Marketplace's Customer Service unit and appealed that determination.

On June 13, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. A Spanish Interpreter [REDACTED] also attended the hearing. 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) You are married and file a joint tax return with your spouse.
- 2) You are the only person in your household who is seeking health insurance through the Marketplace.
- 3) Your household income is \$52,500.
- 4) You live in Westchester County.
- 5) You have a mortgage expense of \$2,088.84 per month and a home equity loan expense of \$300 per month.
- 6) You incur expenses of \$505.08 in maintenance per month.
- 7) Your car insurance is \$4,052 annually.
- 8) You pay \$900.00 annually in health insurance expenses for your spouse.
- 9) Your spouse's Medicare expenses total \$1,680 per year.
- 10) You testified that paying health insurance premiums of approximately \$400.00 per month is too much when you have older parents to support plus other expenses such as food, and utilities.

You stated that you and your husband are elderly and unable to keep working much longer. Currently your husband is working seven days per week.

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 an advance premium tax credit (APTC) if his or her household income is between 138% and 400% of the FPL (45 CFR § 155.305(f)). The FPL for a household of two is \$15,510.00, so a person in that household may qualify for APTC if the household income is between \$21,403.00 (138% FPL) and \$62,040.00 (400% FPL).

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).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution is set by Federal law at 2% to 9.5% of household income (26 USC § 36B(b)(3)(A)).

For household income that is at least 300% but less than 400% of the 2013 federal poverty level (FPL), the expected contribution is 9.5% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR 155.300(a)).

For a two-person household, the 2013 FPL is \$15,510.00 (78 Fed Reg 5182, 5813 (2013)).

## **Legal Analysis**

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

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).

According to the record there are two people in your household, you and your spouse.

You reside in Westchester County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$383.18 per month.

You attested to a household income of \$52,500.00. During the hearing you testified that the cost of your mortgage, home equity loan, maintenance, automobile insurance, medical insurance for your spouse, food, utility, and parental care expenses prevent you from being able to pay for the health insurance premiums your insurance plan requires. The Internal Revenue Service rules do not allow those expenses to be deducted from modified adjusted gross income, which is the number used to calculate the amount of APTC. Therefore, the Marketplace was correct when it did not subtract these expenses from your expected income.

Your expected income for 2014 is \$52,500.00, which is 338.49% of the 2013 FPL for a two-person household. At 338.49% of the FPL, the expected contribution to the cost of the health insurance premium is 9.5% of income, or \$415.62 per month.

The maximum amount of APTC that can be authorized equals the cost of the second lowest cost silver plan in your county (\$383.18 per month) minus your expected contribution (\$415.62 per month). Since your expected contribution is higher than the cost of the second lowest cost silver plan, the amount of APTC that can be approved by the Marketplace is \$0.00, and the eligibility determination is correct.

## **Decision**

The April 26, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** August 4, 2014

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

The April 26, 2014 eligibility determination is correct and it continues in effect.

You are eligible to receive \$0.00 monthly of advance premium tax credit.

## **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 April 26, 2014 eligibility determination is **AFFIRMED**.

You are eligible to receive \$0.00 monthly of advance premium tax credit.

### **Legal Authority**

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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]  
[REDACTED]