



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

### Notice of Decision

Decision Date: August 26, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000641

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On June 12, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s March 28, 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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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000641

[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, as of March 28, 2014 [REDACTED] was eligible for a maximum advance premium tax credit (APTC) of \$291.00?

## Procedural History

The Marketplace received your application for health insurance on March 28, 2014.

On March 29, 2014 the Marketplace issued an eligibility determination that, with a household income of \$19,000.00, you were eligible to receive up to \$291.00 per month in advance premium tax credit (APTC) to help pay the cost of insurance.

On May 13, 2014, you spoke with the Marketplace's Customer Service Unit and appealed that determination.

On June 12, 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) You are is the only person in her your household. Although you live with two other people, you do not expect to claim them as dependents, or expect to be claimed by them as a dependent, for the 2014 tax year.
- 2) You expect to file as single for the 2014 tax year.
- 3) You do not have any other dependents or children.
- 4) You do not expect to claim any other deductions for the 2014 tax year.
- 5) You currently are employed by the [REDACTED].
- 6) On your March 28, 2014 application, you indicated a household income of \$19,000.00 and attested that it was based on your 2013 tax return.
- 7) You expect to earn less during 2014 than you did in 2013. You testified that you are working fewer hours this year than last year. You further testified that during 2014 you expect to work an average of 27 to 30 hours per week at a rate of \$11.87 per hour.
- 8) You testified that you are in a different living situation than you were in 2013. You are now responsible for a higher amount in bills and feel that you cannot afford health insurance after your bills are paid.
- 9) You currently live in Nassau County.

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 her household income is between 138% and 400% of the 2013 Federal Poverty Level (FPL) (45 CFR §§ 155.300(a), 155.305(f)). The 2013 FPL for a one-person household is \$11,490.00 (78 Fed Reg 5182, 5813 (2013)). Therefore, a one-person household may qualify for APTC if the household income is between \$15,857.00 (138% FPL) and \$45,960.00 (400% FPL).

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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 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 is set by Federal law at 2% to 9.5% of household income (26 USC § 36B(b)(3)(A)).

For household income in the range of at least 150% but less than 200% of the 2013 federal poverty level (FPL), the expected contribution is from 4.0% to 6.3% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR 155.300(a)).

People who use the APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their income tax form). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

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)).

The NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

## Legal Analysis

The only matter currently at issue is the amount of advance premium tax credit (ATPC) to which you are entitled.

According to the record, you are the only member of your tax household. You expect to file as single on your tax return for 2014 and to claim no dependents.

You reside in Nassau County, where the lowest cost silver plan that is available through the Marketplace for an individual costs \$365.28 per month.

The March 29, 2014 eligibility determination was based on a household income of \$19,000.00, which was then your expected income as stated on your Marketplace application. Income of \$19,000.00 equals 165.4% of the 2013 FPL for a one-person household. At 165.4% of the FPL, the expected contribution to the cost of the health insurance premium is 4.7% of income, or \$74.42 per month.

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$365.28 per month) minus your expected contribution (\$74.42 per month), which equals \$290.86 per month. Therefore the Marketplace correctly computed your APTC to be \$291.00 per month for your original expected income.

However, you credibly testified at the hearing on June 12, 2014 that you now expect to earn less during 2014 than you did during 2013. You explained that your hours have been reduced and you work between 27 to 30 hours per week at a rate of \$11.87 per hour. You testified that during 2014 you expect to work an average of 27 to 30 hours per week at a pay rate of \$11.87 per hour. At that rate, you would earn between \$16,665.48 and \$18,517.20 for the year.

Since your expected 2014 income has changed, the Marketplace should redetermine your eligibility on this new information. Taking into account the full record, including the fact that your APTC may have been underestimated for the first part of the year, the Marketplace is directed to redetermine your eligibility as of June 12, 2014 on an expected 2014 income of \$17,500.00

Note that the APTC is an advance on the tax credit you can claim on your 2014 federal tax return. Any difference between the advance credit you use to help pay your health insurance premiums and the credit you claim on your 2014 taxes will be reconciled when you file your federal tax return next year.

Additionally, you testified that you may not be able to afford to pay your health insurance premium. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, you

may visit the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **Decision**

The March 29, 2014 eligibility determination is AFFIRMED.

However, based on the additional evidence in the form of sworn testimony provided at the hearing, the matter is returned to the Marketplace to redetermine eligibility as of June 12, 2014 on an expected 2014 income of \$17,500.00.

**Effective Date of this Decision:** August 26, 2014

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

You remain eligible to receive advance premium tax credits (APTC) at an amount to be recalculated by the Marketplace.

## **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.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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## **Summary**

The March 29, 2014 eligibility determination is AFFIRMED.

However, based on the additional evidence in the form of sworn testimony provided at the hearing, the matter is returned to the Marketplace to redetermine eligibility as of June 12, 2014 on an expected 2014 income of \$17,500.00.

The Marketplace will send you a new notice of eligibility determination, which will apply as of June 12, 2014.

## **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]