



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

### Notice of Decision

Decision Date: August 5, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000645

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On June 24, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 15, 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: AP000000000645

[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 \$198.00 monthly of Advance Premium Tax Credit (APTC) as of May 15, 2014?

### Procedural History

The Marketplace received your initial application for health insurance on March 27, 2014. An eligibility determination notice was issued March 28, 2014, stating you were temporarily eligible to enroll in a qualified health plan (QHP). With a household income of \$20,493.20, you were temporarily entitled to up to \$287.00 per month in APTC and entitled to cost sharing reductions (CSR); however, more information was needed to verify your income amount. A subsequent notice, issued on May 13, 2014, provided the same information as the March 28, 2014 notice.

On May 14, 2014, your gross income was updated to \$27,809.70, based on paystubs that you provided. Your eligibility was redetermined on this updated figure and an online preliminary eligibility determination was generated. The determination stated that you were eligible to enroll in a qualified health plan (QHP) and, with a household income of \$27,809.60, you were entitled to up to \$198.00 per month in APTC and entitled to cost sharing reductions (CSR).

On May 14, 2014, you spoke to the Marketplace’s Customer Service unit and appealed that preliminary determination.

On May 15, 2014, a determination notice was issued that reflected the May 14, 2014 online preliminary eligibility determination.

On June 24, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and it was left open for 15 days to give you the opportunity to submit proof of your monthly expenses. No documentation was received by the Appeals Unit within the given time frame. The record is now closed.

## **Findings of Fact**

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

- 1) You are currently single and have no dependents.
- 2) You plan to file your 2014 federal income taxes with a tax filing status of single.
- 3) Prior to the hearing, you uploaded your paystubs, which showed a gross income of \$1,069.60 per pay check. At the hearing, you testified that you are paid this amount every two weeks.
- 4) You testified that your monthly expenses include rent, car insurance, a phone bill, and monthly payments to the IRS. You testified that you believe these expenses should be taken into account when calculating your APTC.
- 5) You currently reside in Suffolk County.

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

## **Applicable Law and Regulations**

Eligibility for advance premium tax credit (APTC) is based on the taxpayer's modified adjusted gross income as defined in the federal tax code (45 CFR 155.300(a)). "The term 'modified adjusted gross income' means adjusted gross income increased by -- (i) any amount excluded from gross income under section 911 [26 USCS § 911, Citizens or residents of the United States living abroad], (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) [26 USC § 86(d)]) which is not included in gross income under section 86 [26 USC § 86] for the taxable year" (26 USC § 36B(d)(2)(B)).

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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 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 200% but less than 250% of the 2013 federal poverty level (FPL), the expected contribution is from 6.30% to 8.05% of the household income (see 26 CFR § 1.36B-3(g)(2), 45 CFR 155.300(a)).

For a one-person household, the 2013 FPL is \$11,490.00 (78 Fed Reg 5182, 5813 (2013)).

## **Legal Analysis**

The only issues currently under review are whether the Marketplace properly determined your household income and properly calculated your APTC.

The first issue is whether the Marketplace correctly determined your household income. You are the only person in your tax household. According to the information you provided, you earn \$1,609.60 every two weeks. This would result in a household income of \$27,809.60 for the year.

During the hearing, you stated that your expenses for rent, phone, car insurance, and an outstanding debt to the IRS should be deducted from his household income. Since the Internal Revenue Service rules do not allow these expenses to be deducted from the calculation of your adjusted gross income, they also cannot be deducted when the Marketplace computes you modified adjusted gross income for APTC purposes. Therefore, the Marketplace's decision not to deduct these expenses when calculating your APTC was correct.

The second issue is whether the Marketplace properly determined that the maximum amount of your APTC was \$198.00 per month.

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You reside in Suffolk County, where the second lowest cost silver plan available through the Marketplace for an individual costs \$378.00 per month.

Your expected income for 2014 is \$27,809.60, which is 242.03% of the 2013 FPL for a one-person household. At 242.03% of the FPL, the expected contribution to the cost of the health insurance premium is 7.77% of income, or \$180.06 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$378.00 per month) minus your expected contribution (\$180.06 per month), which equals \$197.94, rounded up to \$198.00.

Therefore the Marketplace correctly computed your APTC to be a maximum of \$198.00 per month.

## **Decision**

The May 15, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** August 5, 2014

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

The Marketplace correctly determined your household income and the amount of your advance premium tax credit.

You remain eligible for an advance premium tax credit of up to \$198.00 per month and, while you are enrolled in a silver level plan through the Marketplace, for cost sharing reductions.

## **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 May 15, 2014 eligibility determination is AFFIRMED.

The Marketplace correctly determined your household income and the amount of your advance premium tax credit.

You remain eligible for an advance premium tax credit of up to \$198.00 per month and, while you are enrolled in a silver level plan through the Marketplace, for cost sharing reductions.

### **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]