



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

## Notice of Decision

Decision Date: August 20, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000661

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

Dear [REDACTED],

On June 19, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 16, 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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DEPARTMENT OF HEALTH  
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Albany, NY 12211

## Decision

Decision Date: August 15, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000661

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

## Issue

The issues presented for review by the Appeals Unit of the NY State of Health are:

Did the Marketplace properly determine that [REDACTED] is eligible for up to \$105.00 monthly of advance premium tax credit (APTC)?

Did the Marketplace properly determine that [REDACTED] is not eligible for cost-sharing reductions (CSR)?

## Procedural History

The Marketplace received your initial application on November 30, 2013.

That same day, the Marketplace issued an eligibility determination in your case. It said that you were eligible to enroll in a qualified health plan (QHP) and receive up to \$105.00 monthly of APTC. However, you were not eligible for CSR because your household income was over the allowable income limit.

On April 16, 2014, the Marketplace issued a notice with findings identical to those in the November 30, 2013 determination.

On May 19, 2014, you spoke with Marketplace Customer Service and appealed the determinations.

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On June 19, 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 divorced (NYSOH Exhibit A, pg. 1; Appellant testimony 6/19/14).
- 2) You expect to file a U.S. Income Tax return for the 2014 tax year, file as "single," and claim no dependents (NYSOH Exhibit A, pg. 2; Appellant testimony 6/19/14).
- 3) You testified that you earned \$38,950.00 during 2013, but due to a lack of overtime work at your position as a [REDACTED] with [REDACTED] your expected income during 2014 has decreased to \$34,000.00 (Appellant testimony 6/19/14).
- 4) You reside in Kings County, New York (NYSOH Exhibit A, pg. 2; Appellant testimony 6/19/14).
- 5) You testified that if you did not qualify for additional APTC, you would have difficulty making any insurance premium payments due to your monthly living expenses, which include rent, food, credit card payments, utilities, telephone, and Metrocard (Appellant's testimony 6/19/14).

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

## **Applicable Law and Regulations**

An advance premium tax credit (APTC) is available to a tax filer who expects to (1) have a household income of at least 100% but not more than 400% of the Federal Poverty Level (FPL) and (2) claim a personal exemption deduction on his or her tax return for an applicant who is eligible to enroll in a qualified health plan and can obtain minimum essential coverage only through the individual Marketplace (45 CFR § 155.305(f); 26 CFR 1.36B-2).

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have a household income that does not exceed 250%

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of the FPL for the plan year coverage is requested and (4) is enrolled in a silver-level QHP (45 CFR § 155.305(g)(1)).

The maximum amount of APTC that can be authorized equals:

- 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*

- 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 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 250% but less than 300% of the 2013 federal poverty level (FPL), the expected contribution is from 8.05% to 9.5% 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)).

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 (see 45 CFR § 155.505(c)).

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

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## Legal Analysis

The matters at issue are whether the Marketplace properly determined that the maximum amount of your advance premium tax credit (APTC) was \$105.00 per month and properly determined that you were not eligible for cost-sharing reductions (CSR).

Your household size for APTC purposes is one person, yourself. You expect to file a U.S. Income Tax return for 2014 as “single” and to claim no dependents.

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

Your expected income for 2014 is \$34,000.00, which is 295.91% of the 2013 FPL for a one-person household. At 295.91% of the FPL, the expected contribution to the cost of the health insurance premium is 9.38% of income, or \$265.77 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$370.53 per month) minus your expected contribution (\$265.77 per month), which equals \$104.76 per month.

Therefore, computing to the nearest dollar, the Marketplace correctly determined your APTC to be \$105.00 per month.

Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since your household income is 295.91% of the FPL, you are not eligible for cost sharing reductions.

Since the determinations that you appealed correctly stated that you were entitled to APTC of up to \$105.00 per month and were not entitled to CSR, the determinations are AFFIRMED.

You stated that in spite of being determined eligible by the Marketplace for APTC, you may have difficulty paying for your health insurance premiums due to your monthly expenses. If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for additional information and an application.

## **Decision**

The November 30, 2013 and April 16, 2014 eligibility determinations are AFFIRMED.

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

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

You are eligible to claim an advance premium tax credit (APTC) of up to \$105.00 per month to help pay the premiums for health insurance you purchase through the Marketplace.

You are not eligible for cost-sharing reductions (CSR) because your household income exceeds the limit allowed.

## **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):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
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## **Summary**

The November 30, 2013 and April 16, 2014 eligibility determinations are **AFFIRMED**.

You are eligible to claim an advance premium tax credit (APTC) of up \$105.00 per month to help pay the premiums for health insurance you purchase through the Marketplace.

You are not eligible for cost-sharing reductions (CSR) because your household income exceeds the limit allowed.

If you are interested in requesting a hardship exemption, you can find additional information at the Federal Marketplace website ([www.healthcare.gov](http://www.healthcare.gov)).

## **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]