



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

## Notice of Decision

Decision Date: September 2, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000683

[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 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

Decision Date: September 2, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000683

[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 \$529.00 monthly of Advance Premium Tax Credit (APTC) as of May 15, 2014?

## Procedural History

The Marketplace received your application on February 21, 2014. That application was modified on May 14, 2014.

On May 15, 2014, the Marketplace issued an eligibility redetermination in your case. It said that you and your husband were eligible to receive up to \$529.00 monthly of APTC and to get cost-sharing reductions (CSR) as long as you selected a silver-level qualified health plan (QHP).

On May 22, 2014, you called the Marketplace's Customer Service unit and appealed that determination.

The Marketplace sent you a Notice of Telephone Hearing on June 3, 2014 for a scheduled telephone hearing on June 27, 2014.

On June 27, 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.

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## Findings of Fact

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

- 1) You are married and have five dependent children. You and your husband plan on filing your 2014 taxes as married filing jointly (NYSOH Marketplace Application; Appellant Testimony of 6/30/2014).
- 2) Your family resides in Suffolk County.
- 3) You and your husband reported on your Marketplace online application that your household income is \$58,500.
- 4) You testified that you work 40 hours a week as a [REDACTED] and are paid \$10.00 regular hourly pay and \$11.00 hourly on holidays. Your husband works anywhere from 44 hours up to 77 hours some weeks and is paid \$10.00 regular hourly pay and \$11.00 per hour on holidays, too (Appellant's Testimony of 6/30/2014; Appellant's Exhibits A and B).
- 5) You testified that you do not know what the household income will be for 2014, but you think it will be around the amount reported on your Marketplace online application (Appellant's Testimony of 6/30/2014; see NYSOH Marketplace Application).
- 6) The Marketplace online account shows that you and your husband chose a silver level QHP (Fidelis Care Silver) with a monthly premium amount of \$720.00 minus \$529.00 APTC for a monthly premium amount of \$191.00 (NYSOH Marketplace Account – Manage Plans Portal).
- 5) You testified that you might be able to pay a \$191.00 monthly premium for health insurance now, but not an additional \$529.00 in deductibles (Appellant's Testimony of 6/30/2014).
- 6) You testified that you are concerned that you may work fewer hours during the rest of the year, as you have in past years, and make less money so you won't be able to afford your monthly premium (Appellant Testimony of 6/30/2014).

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

## Applicable Law and Regulations

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 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)).

For a seven-person household, the 2013 FPL is \$35,610.00 (78 Fed Reg 5182, 5813 (2013)).

Cost sharing reductions (CSR) are available to a person who is eligible to enroll in a qualified health plan (QHP) and:

- 1) is eligible for an advanced premium tax credit (APTC),
- 2) has a household income less than 250% of the FPL, and
- 3) enrolls in a silver level health plan

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)).

## Legal Analysis

According to the record there are seven people in your household, you, your spouse, and your five children. Your children have health insurance coverage under separate policies.

You reside in Suffolk County, where the second lowest cost silver plan available through the Marketplace for a couple costs \$756.00 per month.

Your expected income for 2014 is \$58,500.00, which is 164.28% of the 2013 FPL for a seven-person household. At 164.28% of the FPL, the expected contribution to the cost of the health insurance premium is 4.66% of income, which equals \$227.18 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan in your county (\$756.00 per month) minus your expected contribution (\$227.18 per month), which equals \$528.82 per month. Therefore, to the nearest dollar, the Marketplace correctly determined your APTC to be \$529.00 per month.

The \$529.00 amount is not the amount that you pay for your insurance. It is an estimated tax credit that can be subtracted from your health insurance premium to make it less expensive.

The notice that the Marketplace sent you on July 4, 2014 shows, on page 2, how this \$529.00 premium tax credit works in your particular case.

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 164.28% of the FPL, you are eligible for cost-sharing reductions. Since your household income is 164.28% of the FPL, your household is eligible for CSR. Cost-sharing reductions mean the insured household members in a silver level QHP will pay less when they go to the doctor or get a prescription, and their yearly deductible is lower as long as they have chosen a silver level QHP.

However, you testified that, if you lose work or have less work, you will not be able to afford to pay the monthly insurance premium even with APTC and CSR. If you wish to be considered for a hardship exemption, which would exempt you and your husband from paying a penalty for not having health insurance in 2014, you can check the Federal marketplace website ([www.healthcare.gov](http://www.healthcare.gov)) for an application.

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).

Since the May 15, 2014 notice was correct when it said your household qualifies for an advance premium tax credit (APTC) of up to \$529.00 and for cost-sharing reductions while you are enrolled in a silver-level plan in the Marketplace, it can be AFFIRMED.

## **Decision**

The May 15, 2014 eligibility redetermination is AFFIRMED.

**Effective Date of this Decision:** September 2, 2014

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

As of May 15, 2014, you and your husband are eligible to receive \$529.00 monthly of advance premium tax credit (APTC).

The July 4, 2014 notice from the Marketplace shows how the \$529.00 APTC helps reduce the cost of your insurance.

You both also remain eligible to receive cost-sharing reductions (CSR) as long as you are enrolled in a silver level health plan through the Marketplace.

The May 15, 2014 eligibility redetermination remains in effect.

## **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

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).

- 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 redetermination is AFFIRMED.

As of May 15, 2014, you and your husband are eligible to receive \$529.00 monthly of advance premium tax credit (APTC).

The July 4, 2014 notice from the Marketplace shows how the \$529.00 APTC helps reduce the cost of your insurance.

You both also remain eligible to receive cost-sharing reductions (CSR) as long as you are enrolled in a silver level health plan through the Marketplace.

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)).



## **Legal Authority**

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]