



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

## Notice of Decision

Decision Date: September 25, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000729

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On July 30, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 11, 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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Appeal Identification Number: AP000000000729

[REDACTED]  
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## Issues

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

Did the Marketplace properly determine that your expected out-of-pocket tuition expenses for 2014, totaling \$5,468.30, cannot be considered when calculating the amount of advance premium tax credit (APTC) to which you may be entitled?

Did the Marketplace properly determine that you were eligible for \$276.00 per month of advance premium tax credit (APTC) as of June 11, 2014?

Did the Marketplace properly determine that as of June 11, 2014, you were eligible for cost sharing reductions (CSR), provided you are enrolled in a silver level qualified health plan (QHP)?

## Procedural History

The Marketplace received your application for health insurance on June 10, 2014.

On June 11, 2014, the Marketplace issued an eligibility determination notice in your case. That notice stated that you were eligible to receive up to \$276.00 per month in advance premium tax credit (APTC) and that you were eligible to receive cost sharing reductions (CSR), if you enrolled in a silver level qualified health plan.

On or about June 26, 2014, the Marketplace received your written appeal. In it you asked that your health insurance not be terminated. However, when you spoke with Marketplace Customer Service on June 26, 2014, you indicated that you wished to appeal the amount of your APTC.

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).

On July 30, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeal Unit. The record was left open for 15 days for you to submit additional evidence. The Appeals Unit received that documentation on August 4, 2014 via fax. The record is now closed.

## **Findings of Fact**

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

- 1) You testified that you plan on filing your 2014 tax return with a filing status of single.
- 2) You testified that you do not plan on claiming any dependents on your 2014 tax return.
- 3) You testified that your expected household income for 2014 is \$20,800.00.
- 4) You testified that your income is from a "stipend" from an internship where you work 40 hours a week and are paid \$10.00 an hour.
- 5) You testified that the amount of money you receive is not considered a scholarship, award, fellowship, or grant.
- 6) You testified that at this time there is no end date for your internship and that you will continue to work there for as long as they will allow.
- 7) You testified and provided evidence that your expected out-of-pocket tuition expenses for 2014 total \$5,468.30. You believe that this should be taken into consideration when calculating your household income.
- 8) Your application states that you reside in Kings County.

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

## **Applicable Law and Regulations**

The amount of advance premium tax credit (APTC) for which an individual might be eligible is based upon her modified adjusted gross income (MAGI) (45 CFR § 155.305(f)).

The Marketplace calculates MAGI using the same methods used in section 36B(d)(2)(B) of the Internal Revenue Code, with some exceptions that do not apply here (NY Soc. Serv. Law § 366(1)(a)(7)).

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The Internal Revenue Code defines MAGI as the adjusted gross income increased by any amount excluded from gross income under section 911 [26 USCS § 911], any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and an amount equal to the portion of certain social security benefits that are not included in gross income under section 86 [26 USCS § 86] for the taxable year (26 USC § 36B(d)(2)(B)).

The law that allowed for a deduction from adjusted gross income of tuition and fees paid to a qualified educational institution expired as of December 31, 2013, and has not been renewed by Congress (see 26 USC § 222, 26 USC § 25A).

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

(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 towards the cost of health insurance premiums is set by Federal regulation at 2% to 9.5% of income, depending on household's income. For household income from 150% to 200% of the 2013 federal poverty level (FPL), the expected contribution is from 4.00% to 6.30% of the household income (26 CFR § 1.36B-3(g)(2)).

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

## **Legal Analysis**

The issue on appeal is whether the Marketplace properly determined that, as of June 11, 2014, you were eligible for an advance premium tax credit (APTC) of up to \$276.00 per month and eligible for cost sharing reductions (CSR).

For an APTC and CSR analysis, you are in a one-person household because you expect to file single and claim no dependents on your 2014 federal income tax return.

You testified at the hearing that your gross income is \$20,800.00 but you believe that your tuition expenses should be considered when calculating your gross income for APTC purposes. You testified at the hearing and provided evidence that for 2014 you will pay out of pocket \$5,468.30 for tuition. Prior to December 31, 2013, at least part of this amount could be deducted from your gross income as noted above. However, the law allowing this deduction expired on December 31, 2013, and has not yet been renewed by Congress for 2014. At this time, it is not known if Congress will renew the law. Therefore, this deduction cannot be used in calculating your adjusted gross income presently.

At the hearing you also testified that the income you receive from your internship is a stipend to help pay for your expenses. Certain scholarships, awards, fellowships, and grants that are used for education purposes and not for living expenses are excluded from the calculation of modified adjusted gross income. However, what you referred to as a stipend is not considered a scholarship, award, fellowship, or grant; it is an hourly wage and cannot be excluded from your gross income. Therefore, your income for purposes of calculating the amount of APTC you are eligible for is \$20,800.00.

A one-person household with a gross income of \$20,800.00 places you at 181.03% of the 2013 FPL. At 181.03% of the FPL, the expected contribution to the cost of the health insurance premium is 5.43% of household income, or \$94.12 per month.

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

The maximum amount of APTC that can be awarded equals the cost of the second lowest cost silver plan in your county (\$370.53 per month) minus your expected contribution (\$94.12 per month), which equals \$276.41 per month. Therefore, the Marketplace correctly computed your APTC to be \$276.00 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 on June 11, 2014 was 181.03%, of the FPL, you were eligible for cost sharing reductions if you enrolled in a silver-level plan through the Marketplace.

## **Decision**

The Marketplace's June 11, 2014 eligibility determination is **AFFIRMED**.

**Effective Date of this Decision: September 25, 2014**

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

The June 11, 2014 eligibility determination is AFFIRMED.

As of June 11, 2014, you are eligible for an advance premium tax credit of up to \$276.00 per month and eligible for cost sharing reductions if enrolled in a silver-level QHP.

## **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.

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

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

The June 11, 2014 eligibility determination is AFFIRMED.

As of June 11, 2014, you are eligible for an advance premium tax credit of up to \$276.00 per month and eligible for cost sharing reductions if enrolled in a silver-level QHP.

## **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]